Legal Issues of Services of General Interest

Series Editors
Johan Willem van de Gronden
Markus Krajewski
Ulla Neergaard
Erika Szyszczak

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Editors

Social Services of General Interest in the EU
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.

Series Editors

Ulla Neergaard  
Faculty of Law  
University of Copenhagen  
Schillerstraße 6  
1455 Copenhagen K  
Denmark  
e-mail: ulla.neergaard@jur.ku.dk

Erika Szyszczak  
School of Law  
University of Leicester  
University Road  
LE1 7RH Leicester  
UK  
e-mail: ems11@leicester.ac.uk

Johan Willem van de Gronden  
Faculty of Law  
Radboud University  
Comeniuslaan 4  
6525 HP Nijmegen  
The Netherlands  
e-mail: j.vandegronden@jur.ru.nl

Markus Krajewski  
Fachbereich Rechtswissenschaft  
Universität Erlangen-Nürnberg  
Schillerstraße 1  
91054 Erlangen  
Germany  
e-mail: markus.krajewski@jura.uni-erlangen.de
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 Wessels. Their enthusiasm for our project has led to a series of timely publications.

Ulla Neergaard  
Erika Szyszczak  
Johan Willem van de Gronden  
Markus Krajewski
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Contributors

Rita Baeten  Master of Social Sciences, is a senior policy analyst at the OSE. Her research activities focus on the impact of European integration on national healthcare systems and on their social character. Her research topics include themes such as patient mobility in the EU; healthcare services in the internal market; EU pharmaceutical policies and EU-level co-operation in the field of healthcare. She is work leader for the OSE contribution to EU research projects such as ECAB (2010-2013) and Europe for patients (2004–2007). Both projects address cross border care and are financed by the European Commission under its Framework Programs for Research. Rita Baeten advises the Belgian federal authorities on EU policy developments that may have an impact on healthcare in Belgium. She also coordinated the scientific preparation and follow-up of several international and ministerial conferences on these topics.

Julio Baquero Cruz  is a Member of the Legal Service of the European Commission. He holds a Spanish law degree, an LL.M. (College of Europe, Bruges) and a Ph.D. from the European University Institute (Florence). From 2000 to 2004 he was a référendaire at the Court of Justice of the European Union, first in the chambers of President Rodríguez Iglesias, then with Advocate General Maduro. He was García Pelayo Fellow at the Centro de Estudios Políticos y Constitucionales (CEPC, Madrid, 2007–2008), Associate Professor at Universidad Carlos III (Madrid, 2007–2008), and Marie Curie Fellow at the Robert Schuman Centre (EUI, 2005–2006). He has been a guest professor at the Academy of European Law in Florence. He is currently a visiting professor at the École de Droit of Sciences Po (Paris), CEPC and Universidad San Pablo (Madrid). He has published extensively on EU law, including his book Between Competition and Free Movement (Oxford, Hart, 2002).

Pierre Bauby  is researcher and Professor of Political Science (Paris 8 University, SciencePo Paris, French National School of Public Administration (ENA), Centre National de la Fonction Publique Territoriale). He holds a Ph.D. degree in Political Science from Institut d’Etudes Politiques of Paris. He is Special Advisor on
Services of General Interest of the General Secretariat of CEEP (European Centre of Employers and Enterprises providing Public Services) and expert of the Rapporteur on Services of General Interest of the European Economic and Social Committee (EESC). He is Chairman of the French Association Reconstruire l’Action Publique and member of the International Scientific Commission public services—public enterprises of CIRIEC (International Centre of Research and Information on the Public, Social and Cooperative Economy). His main publications focus on the reform of the State and on Services of General Interest. His main publications include: *L’européanisation des services publics*, (Presses de SciencePo, Paris, 2011); *Service public, services publics*, (La Documentation Française, Paris, 2011); *Europe: une nouvelle chance pour le service public!* (Fondation Jean Jaurès 2010); *Mapping of the Public Services in the European Union and the 27 Member States*, a study commissioned by CEEP Bruxelles for the European Commission (2010); *Les services publics en Europe, Pour une régulation démocratique* (2007); *Reconstruire l’action publique* (Syros, 1998); *Le service public* (Flammarion, 1997); *L’Etat-stratège*, (Editions ouvrières, 1991).

**Ulrich Becker** is the Managing Director of the Max Planck Institute for Social Law and Social Policy in Munich, Germany. He took his First State Examination in Law in 1984 and his Second State Examination in Law in 1989. He received his LL.M. from the European University Institute (EUI) in Florence, Italy (1991), his Ph.D. (1989) and his habilitation (1994) in Public Law, European Law and Social Law from the Faculty of Law at the University of Würzburg, Germany. From April 1996 to August 2002 he was full professor at the University of Regensburg and holder of the chair for Public Law, German and European Social Law. Since 2002, he has been a Scientific Member of the Max Planck Society as well as Honorary Professor for Public Law, European Law and Social Law with the Law Faculty of the Ludwig Maximilian University Munich, Faculty of Law, Germany. He has authored and edited many books and numerous articles in domestic and international journals and is a member of various executive and advisory boards pertaining to international organisations for social security and social law.

**Wouter Jan Berends** is a Ph.D. candidate in Public Economic Law at the Europa Institute of the University of Utrecht Law School. Since 1 August 2011, he has been working on a research project entitled: *Towards a consistent and efficient EU legal framework for public procurement*. After obtaining his LLM degree in European Law in 2010, he worked for the Europa Institute as a junior lecturer, teaching courses on EU law and competition law. The Dutch European Law Society (NVER) awarded him with the annual thesis prize for his LLM thesis on the interpretation of multilingual EU legislation by the European Court of Justice.

**Francesco Costamagna** is Assistant Professor in European Union Law at the Law Faculty of the University of Turin. He has been Post-doctoral fellow in International Law at the same University. He holds a Ph.D. in International Economic Law from the L. Bocconi University of Milan. The research topic was on *International Protection of Public Infrastructure Investments and State*
Sovereignty. His research focuses on the relationship between economic and social rights and international economic norms, as well as the EU internal market rules. He is the author of a monograph (in Italian) on *Social and Health Services, Competition and Freedom to Provide Services in the EU Legal Order*. He has also published articles and other works on these issues. He has been visiting scholar at the Centre for Energy, Petroleum and Mineral Law and Policy (University of Dundee).

**Jim Davies** is a Senior Lecturer in Law at the University of Northampton. He obtained his LLB in 2006 from the University of Northampton, and an LLM in 2008 and Ph.D in 2010 from the University of Leicester where he was the holder of a Modern Law Review Scholarship for doctoral research. His Ph.D. research has been developed into a monograph published by Palgrave Macmillan in September 2011 under the title of: *The European Consumer Citizen in Law and Policy*. He contributed to, and was joint editor of, *Developments in Services of General Interest* (with Professor Erika Szyszczak, Professor Mads Andenaes and Dr. Tarjei Bekkedal) published by TMC Asser Press in 2011. His current research interests are in the area of European Law and, more specifically, the developing role for individual citizens as consumers in the internal market. Before reading law as a mature student he spent many years as a senior manager in the telecommunications industry and has expertise in organisational change and strategic process development.

**Leo Flynn** is a graduate of the National University of Ireland and of Cambridge University, has been a member of the Legal Service of the European Commission since 2002. He currently works in the State aid team, where he concentrates on the banking sector, transfer to the State of social charges and procedural issues. Prior to joining the Commission, he had been a Legal Secretary at the Court of Justice for five years. From 1992 to 1997, he lectured at King’s College, London and remains a member of its Centre for European Law. He has written widely on EU law, especially on selected competition law issues, free movement of capital, social policy and on EU law in national courts.

**Johan W. van de Gronden** is Professor of European law at the Radboud University of Nijmegen since September 2007. He teaches European and competition law. His research focuses on EU free movement, internal market and competition law. His publications concern inter alia the relationship between internal market and competition law and issues of general interest, the impact of EU law on health care, and the Services Directive. He has published in many leading European law journals, *inter alia, the ECLR*, *European Constitutional Law Review* and *LIEI*. He is one of the editors of the TMC Asser Press Series, *Legal Issues of Services of General Interest*. Until September 2007 he worked at the Europa Institute of Utrecht University (from 2003–2007 as senior lecturer). The subject of his Ph.D. Thesis was the implementation of EC Environmental law by decentralised authorities. He is also a deputy judge at the district court of Rotterdam (competition law). Furthermore, he is member of the Committee for Consumer Affairs of
the Social and Economic Council of the Netherlands (Social-Economische Raad) and of the Committee of International Affairs of this council. He is one of the founding members of the ToMas research project.

**Caroline Heide-Jørgensen** is professor of Competition Law and Law of Unfair Competition at the Law Faculty at Copenhagen University. She holds a Ph.D. (2000) on liberal professions and competition law and is dr.jur. (2008) on a thesis on advertising law and freedom of speech. Her main focus within competition law is on private distortions on competition and the general framework of competition law. She also specialises in law of unfair competition, consumer law and general EU law. Before joining the faculty in 1995 she trained as a lawyer in a Copenhagen law firm, and she has also worked as a judge in the Danish High Court. She is a member of the Danish Competition Council (Deputy Chairman) and the Danish Radio- and Television Board. She is affiliated with and director of Centre for European Studies in Economic Law (CESEL) at the Law Faculty in Copenhagen.

**Kristina Koldinská** is an associated professor at the Charles University Faculty of Law. Since 1997 she works at the Department of labour law and social law, where she teaches social security law and labour law and she guarantees and teaches courses on coordination of social security in the EU and on EU social law. She publishes extensively in the Czech Republic (especially with the publishing house C.H. Beck) as well as with various foreign publishing houses (Ashgate, Routledge) and legal reviews. Her research interests include gender equality, EU social law, coordination of social security, social assistance. She is a member of Commission’s Network of legal experts in the fields of employment, social affairs and equality between men and women and TRESS (Training and Reporting on European Social Security), where she was a member of a think tank in 2009, and is currently a member of the networks’ steering group. Both constitute long-lasting projects run by prestigious European universities and financed by the EU Commission.

**Markus Krajewski** is professor of public and international law at the University of Erlangen-Nuremberg (Germany). Before taking up this chair Markus Krajewski held positions at the universities of Bremen and Potsdam and at King’s College London. He has been a visiting professor at the World Trade Institute’s MILE and summer programs and lectured at postgraduate programs on European Law in Berlin and the Academy of European Law in Florence. Markus Krajewski obtained his doctoral degree and his post-doctoral qualification (Habilitation) from the University of Hamburg. His research interests cover international and European law, in particular constitutional and institutional issues of WTO law, trade in services, external relations of the EU and the treatment of public services under European and international law. Markus Krajewski is a regular consultant on international trade law for governmental institutions and non-governmental organisations. He is one of the founding members of the ToMas research project.
Tom Madell  (Juris Dr, LLM) is Professor of Law at the Department of Law, Umeå University, Sweden, with a focus on teaching and research in the twilight zone between private law, public law and competition law. He is an ordinary member of the Group of independent experts on the European Charter of Local Self-Government, Congress of Local and Regional Authorities of Europe at the European Council. He has been a visiting researcher at Flinders University, South Australia. He has been a member of the board for public procurement at the Swedish Competition Authority and he has also been working as a judge at the Court of Appeal for Northern Norrland. He is currently working on the research project: *Welcome to the Twilight Zone*—between *Competition and Solidarity: Consequences of EU Law on Scandinavian Welfare States*, especially in the Field of Services of General Interest.

Elisabetta Manunza  is Professor of International and European Public Procurement Law, Europa Institute, Utrecht Law School. Before working in the field of European and Public procurement law, she worked in the fight against criminal organisations, in particular in crown witness cases. She holds a Ph.D. from the Vrije Universiteit Amsterdam, for her thesis: *Problems of EC Public Procurement Law in the case of privatisation and the fight against corruption and organised crime* (2001, in Dutch). Her dissertation, together with the Parliamentary Committee of Enquiry on the Construction Sector, was the subject of a Parliamentary debate, and its analysis of the screening opportunities in public procurement procedures contributed to the introduction of a new legal administrative screening system—the Policy Rules for Integrity and Exclusion in Public Procurement in the Construction, Environmental/Waste and ICT Sectors (*Beleidsregels in BIBOB-sectoren*). In 2002, her research project: *Questioning the Fundamental Legal and Economic Presuppositions and Principles Underlying the EC Public Procurement Directives* was rated ‘excellent and innovative’ by the Netherlands Organisation for Scientific Research (NWO) and the Royal Netherlands Academy of Arts and Sciences (KNAW) and received a substantial grant. Nowadays, her research interests and publications concentrate on public procurement law. She is a member of the editorial board of the journal Aanbestedingsrecht (Procurement Law), a member of the scientific editorial board of the Tijdschrift voor Bouwrecht (Construction Law Journal), a board member of the Dutch Association for Procurement Law (NVvA), a.o. She is a consultant for government institutions, municipalities and joint ventures, law firms and other companies. She is one of the founding members of the Academisch Genootschap Aanbesteden, an academic interdisciplinary board on public procurement consisting of economists and lawyers.

Dorte Sindbjerg Martinsen  is Associate Professor at the University of Copenhagen, Department of Political Science. Her research focuses on welfare policy developments in the European Union and their implementation in the Member States, as well as studies of the EU executive, judicial policy making and Europeanisation. She has recently been awarded the Sapere Aude research grant from the Danish Research Council to examine the inter-institutional dynamics of health
care regulation, focusing on the patients’ rights directive, and its subsequent implementation in selected Member States. Her publications have appeared in a wide set of political science journals on European politics and administration such as *Public Administration*, *American Review of Public Administration*, *Journal of European Public Policy*, *JCMS*, *West European Politics* and *European Union Politics*.

**Hans van Meerten** is a lawyer at Clifford Chance LLP, Amsterdam. He holds a Ph.D. in European Law (2004). Within his practice, he advises on pension pooling structures in the Netherlands and abroad. Hans van Meerten has extensive knowledge of the various aspects of EU-legislation and processes. One of his special areas of expertise is the EU and Dutch legislation regarding pensions and the cross-border activities of financial institutions. In 2007–2010, Hans van Meerten worked at the Dutch Ministry for Finance and co-wrote the legislation regarding a new Dutch pension fund, the Premium Pension Institution (PPI). This institution has a European IORP passport and can freely offer its services throughout the EU and non-EU countries. In 2000–2007, he was involved in, inter alia, the Brussels negotiations on the Services Directive, the Solvency II Directive, the EU Treaty negotiations of Nice and the European Constitution. Hans van Meerten publishes regularly in national and international journals on retirement and financial legislation, institutional EU law and EU internal market issues. In 2007 he was national rapporteur for the Netherlands regarding the FIDE report on the Services Directive. In 2011, he published a paper to the think tank Netspar (*Regulation pensions—why the European Union matters*). He has also published in *EC Tax Law Review* and *European Company Law*.

**Ulla Neergaard** is Professor of EU law at the Faculty of Law, University of Copenhagen, Denmark. She holds a Ph.D. from the European University Institute, Florence, Italy. Her doctoral thesis is in the area of competition law. Since 1998 Ulla Neergaard has been an academic at the Law Department at the Copenhagen Business School, Denmark, most recently as professor of competition law, but for several years with the responsibility of fundamental EU law teaching and administration. Since 2009 Neergaard has been professor at the Law Faculty at the University of Copenhagen. Also, since 1999 Neergaard has been an expert member of the Danish Council of Competition and since 2005 (until 2011) also of the Danish Energy Regulatory Authority. She has since 2011 been the president of the Danish Association for European Law (subsidiary of F.I.D.E., *Fédération Internationale pour le Droit Européen*). She has published widely in EU competition law as well as in the more fundamental EU law. She has been involved in the international research project: *Blurring Boundaries: EU Law and the Danish Welfare State*, which has led to several books. At present, she is involved in the international research projects concerning: (1) *Towards a European Legal Method: Synthesis or Fragmentation*; and (2) *ToMaS: Transformation of Markets and States*. She is one of the founding members of ToMaS. Her research interests
include free movement law, EU competition law, European legal method(s), and services of general interest.

**Willy Palm** is the Dissemination Development Officer of the European Observatory on Health Systems and Policies. He is responsible for organising and leading policy dialogues with policy-makers in European countries on various health systems related issues. As a lawyer specialised in European social security law, he has been analyzing national and Community regulations and policies covering access to health care. More specifically, his research covers the impact of the EU integration process on health services and systems. Before joining the Observatory in April 2006, Willy Palm was the Managing Director of the International Association of Mutual benefit societies (AIM). He also lead the research and development department of Belgium’s largest sickness fund.

**Malcolm Ross** is Professor of European Law in the School of Law, Politics and Sociology at Sussex University and was Head of the Law Department 2003–2007. He was formerly a Jean Monnet Chair at the University of Leicester until 2000. He has written widely on EU competition law, especially in relation to state aid and services of general economic interest, EU citizenship and state liability. He has also acted in a consultative capacity to the European Commission as well as being involved in a number of judicial training programmes in the Member States that acceded to the EU in 2004. His primary research interests are the interface of social and market objectives in the EU and, in particular, the conceptualisation of solidarity as a principle in EU law. Recent publications include a jointly-edited collection of essays, *Promoting Solidarity in the European Union* (OUP, 2010). He is on the editorial advisory board of the Journal of Common Market Studies.

**Waltraud Schelkle** is a Senior Lecturer in Political Economy at the European Institute, London School of Economics and Political Science, since 2001. She is also an Adjunct professor of economics at the economics department of the Free University of Berlin where she did a post-doctorate degree (Habilitation) in 1999 with a thesis on *The new theory of monetary integration* (published in German in 2001). She is interested in the political economy of European integration, in particular economic governance, and in the interaction of financial markets and welfare systems in Member States. Her recent publications include *A crisis of good governance or a good crisis for governance? A comparison of the EU and the US* in the Review of International Political Economy (February 2012); and *A crisis of what? Mortgage credit markets and the social policy of promoting homeownership in the United States and in Europe* in Politics & Society (March 2012).

**Dagmar Schiek** is Director of the Centre for European Law and Legal Studies, Chair of European Law and holds an *ad personam* Jean Monnet Chair. She has been a visiting professor and guest lecturer at various universities, including the London School of Economics and Maastricht University. Her research interests lie in the field of European Economic and Social constitutionalism, new forms of governance in the EU involving civil society and European and international
equality law. Her recent publications include: *European Non-Discrimination Law and Intersectionality* (Schiek and Lawson eds, Ashgate 2011) and *European Economic and Social Constitutionalism after the Treaty of Lisbon* (Schiek, Liebert and Schneider eds, Cambridge University Press, 2011). Her next book is forthcoming in May 2012 and is entitled: *Economic and Social Integration: The Challenge for EU Constitutional Law* (Cheltenham: Edward Elgar). She is a member of the IUS COMMUNE research school (founded by the Universities of Utrecht, Leiden, Amsterdam, Maastricht and Rotterdam) and on the editorial board of the Maastricht Journal for Comparative and European Law and of Kritische Justiz (Critical Legal Studies, Germany).

**Piet Jan Slot** University of Leiden, was a full time professor until March 2009. He is now part time professor in Leiden. Until September 2010 he was director of the Europa Institute of Leiden University and editor of the CMLRev. He has published extensively on Competition law, State aid and general EU law. Competition law and the State is one of his subjects of research. This includes several articles on Services of General Economic Interest. He was visiting professor in Stanford University (2000–2001), Paris II, Panthéon-Assas (1997), Master of European Regulation of Network Industries, University of Bonn (2004–2011), visiting Jean Monnet professor at the Reinische Friedrich Wilhelms University Bonn, Germany 1990 and 1996. He was three times General Rapporteur for the prestigious bi-annual FIDE conference. He has written many opinions for national court and arbitration procedures, for the General Court, the Court of Justice of the European Union as well as for major law firms. Most recently, he has been involved in a considerable number of high profile arbitration proceedings. All assignments involved major arbitral disputes in Central European countries. In 2009 and 2010 he has advised the Nederlandsche Bank (the Dutch Central Bank) in matters relating to the state aid given to ING in the time of the financial crisis. He has extensive experience in advising national energy companies as well as foreign companies on matters of European law in particular competition, state aid and energy law. He also advised the German Network Authority on trans-border electricity connections.

**Erika Szyszczak** LLB, LLM, Ph.D., is Jean Monnet Professor of European Law ad personam at the University of Leicester, where she is the Director of the Centre for European Law and Internationalisation. She is a practising barrister at Littleton Chambers, Temple, London and an ADR accredited mediator. She is one of the founding members of the ToMaS research project. She is interested in the relationship between free movement and competition and liberalisation in the EU. She is currently writing a second edition of her book *The Regulation of the State in Competitive Markets in the EU* (Hart Pub). She recently edited: *Research Handbook on European State Aid Law*, published by Edward Elgar in 2011.

Alina Tryfonidou is a Lecturer in Law at the University of Reading since September 2011. She was previously a Lecturer at the University of Leicester (2007–2011) and, prior to that she was teaching European Law as a Visiting Tutor
at King’s College London (2005–2007) whilst pursuing her Ph.D. studies at the same institution. Alina Tryfonidou obtained her LLB (2001), LLM (2002) and Ph.D. (2008) from King’s College London and is an Associate of King’s College (AKC) since 2008. She is a non-practising member of the Cyprus Bar since 2003, a Fellow of the Centre of European Law at King’s College London since 2007, and an Associate of the Higher Education Academy since 2010. In 2004, Alina Tryfonidou completed a traineeship (stage) at the European Commission, at the Internal Market Directorate General, and in 2010–2011 she was an IALS Visiting Fellow. Alina Tryfonidou’s main research interests are in the area of European law and, in particular, the law of the European Internal Market and Union Citizenship. She has started working on her second monograph *Constitutionalising the Market Freedoms: Towards Meaningful Union Citizenship* to be published by Hart in 2014.

**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 pubiques 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
<table>
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<td>EU</td>
<td>European Union</td>
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<td>EU 27</td>
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<td>GC</td>
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<td>GDP</td>
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<td>European United Left/ Nordic Green Left</td>
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<td>HLG</td>
<td>High Level Group on Health Services and Medical Care</td>
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<tr>
<td>HSGI</td>
<td>Health Service of General Interest</td>
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<td>HM Government</td>
<td>Her Majesty’s Government (UK)</td>
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<td>HTA</td>
<td>Health technology assessment</td>
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<td>ISTAT</td>
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<td>IORP</td>
<td>Institutions for Occupational Retirement Provision</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<td>NESGI</td>
<td>Non-Economic Service of General Interest</td>
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<td>Open Method of Coordination</td>
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