

Preface

During the years 2004–2010, I worked as a practitioner of Swedish public law on housing and waste treatment; this book was born out of that experience. As a legal advisor for local and regional authorities in Sweden, I faced the challenge of understanding what a service of general economic interest (SGEI) is and how the SGEI character of an activity affects the application of EU market rules to national measures affecting the activity. I was also able to witness the striking contrast between the intensity of the EU debate on services of general interest at an EU level and the loud silence on this topic in Sweden. Yet it was clear that in Sweden as anywhere else in the EU, market law implacably made its way into the Member States' regulation of social services, one of the most sensitive parts of national democracy. It was also clear that this evolution could explain the introduction of several new provisions on SGEI in the EU Treaties, first through the Treaty of Amsterdam 1997–1999 and a decade later through the Treaty of Lisbon 2007–2009.

This transformation of SGEI into a constitutional concept of EU law is the result of a political compromise and, unsurprisingly, the post-Lisbon Treaty framework on SGEI has not only brought up new legal issues but also left crucial legal questions unanswered. This book addresses some of the unsolved questions: in particular, what constitutes an economic activity for the purpose of EU market law and what is the legal meaning of the EU concept of SGEI? The debate on SGEI may not be particularly topical at the moment but it seems important to discuss the meaning and relevance of SGEI, especially because the EU Commission has a mandate to negotiate the international trade agreement between the Union and the USA. The book also proposes an analysis of the ambiguous relationship between the SGEI provisions in the FEU Treaty, as interpreted by the CJEU, and the EU procurement and state aid legislative package adopted within the frame of the Commission Communication on Services of General Interest 2012. Finally, in order to gain a better understanding of the strategic choices made in these legislative packages, the book focuses on the Swedish regulation of public social services in systems of choice and on the effects a strict application of the EU state aid rules would have on their liberalization.

The book would never have existed without enduring attention from Pr. Tom Madell and Pr. Ulla Neergaard, and precious guidance from Pr. Jörgen Hettne, Pr. Johan Lindholm, Pr. Gareth Davies, Pr. Johan van de Gronden and Pr. Erika Szyszczak. The cheering team was composed of Per Wehlander, my beloved husband, and my children, César and Lila. They have amply proved that they know what solidarity means.

Lucky and grateful.

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