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SGI for Everyone

**An introduction to SGIs and
public services in Europe**

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SERVICES OF GENERAL INTEREST: WHAT ARE WE TALKING ABOUT?

THERE IS **LEGAL DEFINITION** OF SERVICES OF GENERAL INTEREST (SGIS) AT EU LEVEL. SGIS ARE SERVICES THAT **PUBLIC AUTHORITIES OF THE MEMBER STATES CLASSIFY AS BEING OF GENERAL INTEREST**. PROVIDERS ARE THEREFORE ENTRUSTED WITH SPECIFIC MISSIONS OF GENERAL INTEREST, INCLUDING PUBLIC SERVICE OBLIGATIONS OR UNIVERSAL SERVICE OBLIGATIONS.

EU law distinguishes between:

- Services of general economic interest, which are subject to EU internal market and competition rules.
- Non-economic services of general interest, which are not subject to specific European legislation or to internal market and competition rules.
- Social services of general interest, based on the principles of solidarity and equal access.

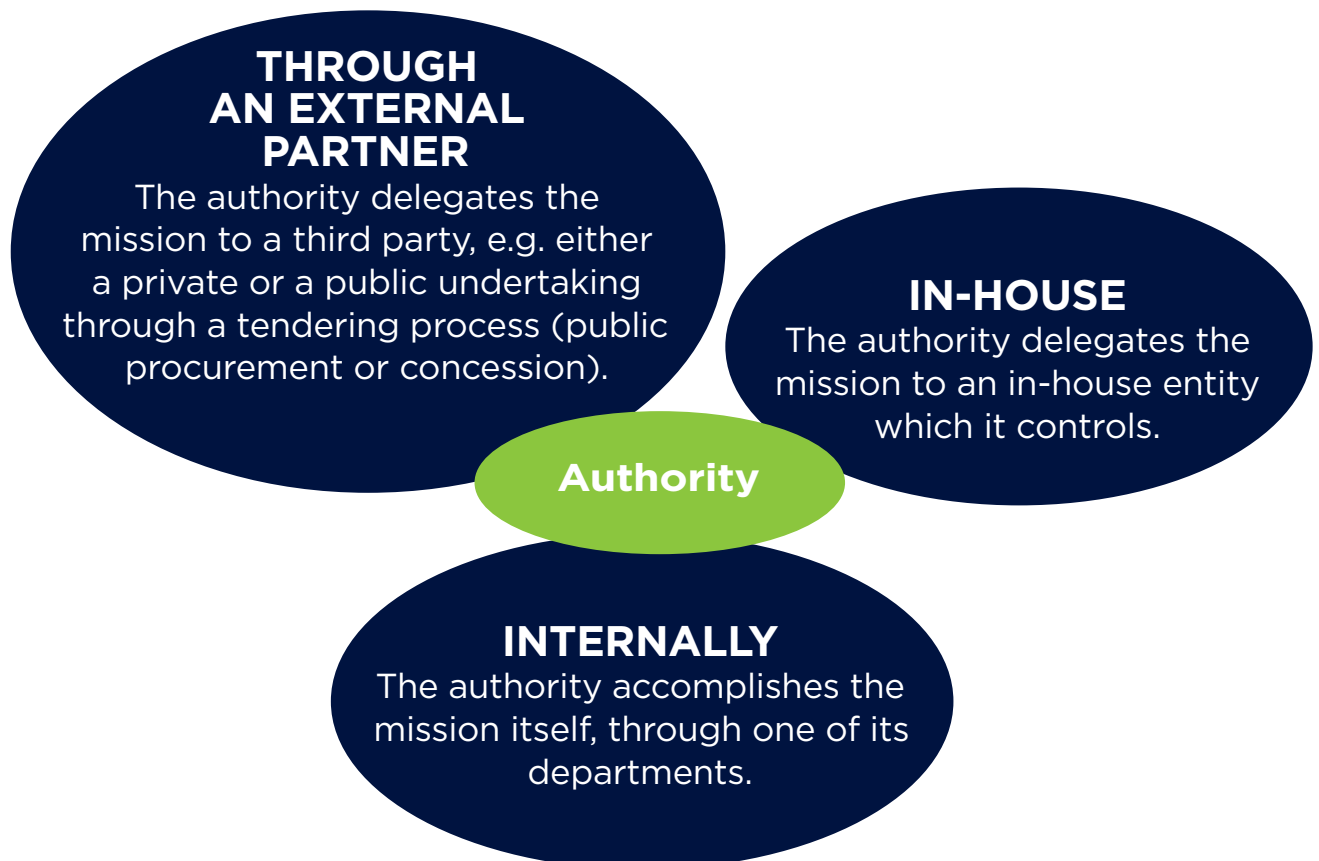
In order to determine whether a service is to be considered SGEI or NESGI, it is essential to assess the economic activity of a provider of SGIs. An economic activity is any activity consisting in offering services on a market.

However, the definition of whether a service is a NESGI or a SGEI cannot be made at European level. This decision is up to Member States. As an example, the activities of providers of Social Services of General Interest (SSGIs) can be considered SGEIs.

Different historical, geographical, social and cultural backgrounds explain the diversity and disparities among Member States with regard to SGIs.

WHO PROVIDES SGIs?

THERE IS A **VARIETY OF PROVIDERS OF SGIs**, DEPENDING ON HOW THE COMPETENT AUTHORITY AT EU, NATIONAL, REGIONAL OR LOCAL LEVEL CHOOSE TO PROVIDE SGIS.

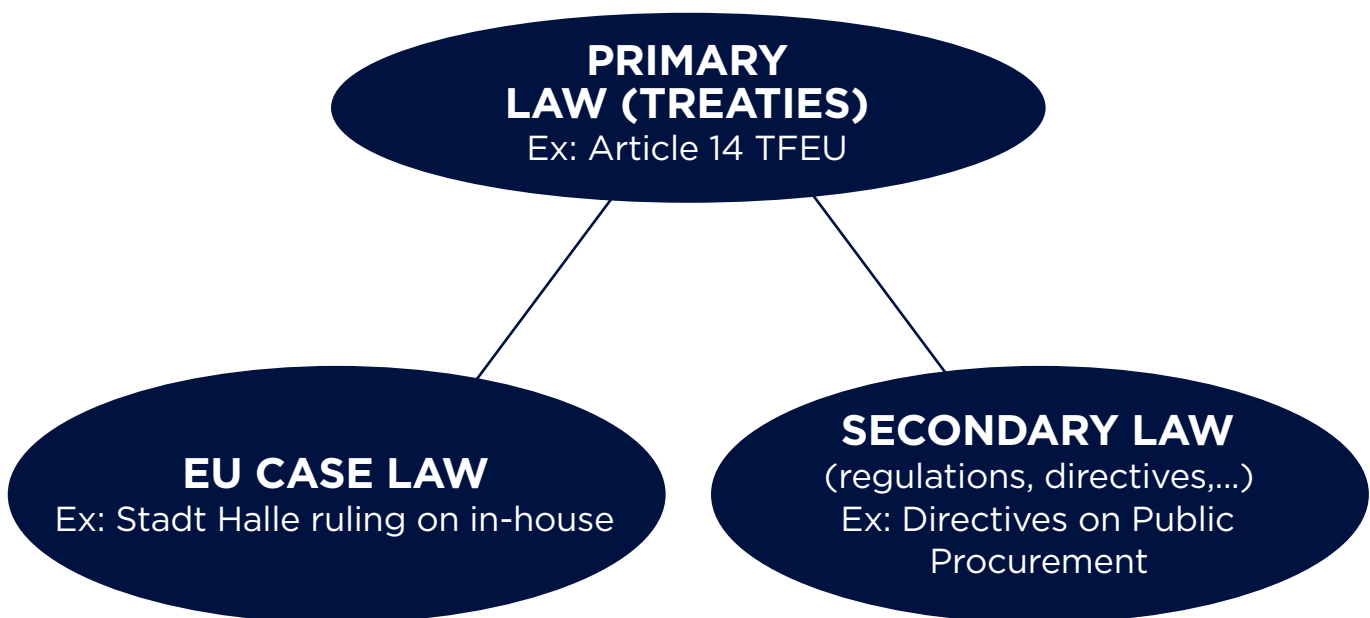


In the context of modernisation of SGIs, authorities often cooperate to provide effective quality services by using economies of scale.

The competent authority is free to decide which “tool” to use in order to best match the needs and expectations of citizens.

SGIS, HEART OF THE EUROPEAN ECONOMIC AND SOCIAL MODEL

SGIS ARE SERVICES WHICH BY THEIR NATURE ARE **ESSENTIAL FOR THE WELL-BEING, HEALTH AND FUNDAMENTAL RIGHTS OF EUROPEAN CITIZENS, FOR EUROPEAN COHESION AS WELL AS SUSTAINABLE DEVELOPMENT. IN THIS REGARD, THEY DESERVE A SPECIAL AND ADAPTED TREATMENT IN THE CONTEXT OF FREE MARKET FORCES, IN ORDER TO ENSURE THEIR PROPER FUNCTIONING.**



Services of General Interest are so important and essential that they deserve a special treatment in EU law.

A SPECIAL TREATMENT IN EU LAW

This has been progressively recognised by Community Law, with the consequence that there is now an **Acquis Communautaire** framing the provision of SGIs in Europe.

This **Acquis Communautaire** is the accumulation of legislation, legal acts, and case law on services of general interest.

It is implemented in Member States. Some provisions are common to all SGEIs, others only concern certain sectors.

The Lisbon Treaty has improved this EU framework for the provision of SGIs throughout Europe, setting the balance between EU common provisions and the necessary room for manoeuvre of authorities to best adapt their mission to citizens' expectations.

The Lisbon Treaty has also **enhanced the democratic legitimacy** of EU legislation on SGIs, which now has to be adopted in **co-decision**, between the Council and the European Parliament.

AS AN EXAMPLE, when providing waste disposal services, a municipality may fall under the scope of, among others:

- Competition rules regulating public funding of public services;
- Public procurement or concession directives, including provisions on public-public cooperation, if the municipality cooperates with its neighbours to carry out this mission;
- Requirements of the EU Waste Framework Directive, regarding for example recycling or incineration.

IMPLEMENTING THE LEGAL FRAMEWORK FOR SGIs

SGI rules and Internal Market rules both pursue the same goal: the well-being of the European citizens. They should therefore be harmoniously combined in order to reach this aim.

The Lisbon Treaty has provided a new legal framework that needs to be implemented.

As a consequence, policies in relation with the organisation and the provision of SGIs have to be shaped accordingly and a coherent approach needs to be adopted by all European actors, based on the following principles:

- **NATIONAL, REGIONAL AND LOCAL AUTHORITIES, REPRESENTING CITIZENS' INTEREST, HAVE FULL FREEDOM OF CHOICE CONCERNING THE ESTABLISHMENT OF STANDARDS, THE ORGANISATION AND THE FINANCING OF SGIS;**
- **THE EUROPEAN COMMISSION AND THE ECJ ARE STRICTLY RESTRICTED TO A CONTROL ON MANIFEST ERRORS;**
- **DECISIONS ON THE PROVISION OF SGIS ARE MADE ON A DEMOCRATIC BASIS. ANY LEGISLATION ON SGIS SHOULD THEREFORE CONSIDER AND REFLECT THAT DIMENSION;**
- **A "ONE-SIZE-FITS-ALL" MARKET APPROACH IS INAPPROPRIATE BECAUSE IT DOES NOT COMPLY WITH THE MULTI-DIMENSIONAL CHALLENGES OF SGIS THROUGHOUT EUROPE.**

After the adoption of the Lisbon Treaty, SGI Europe conducted an extensive assessment of the existing Acquis Communautaire impacting the provision of SGIs in the EU.

This assessment regards the existing primary and secondary law as well as the so called “soft law” and further the jurisdiction of the European Court.

The outcomes of this work are also available in a comprehensive glossary, presenting this whole Acquis Communautaire on Services of General Interest.





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