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Social services of general interest (SSGI) in small states – Liechtenstein as an example

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Presentation at CECS - Centre for European and Comparative Legal Studies, University of Copenhagen

Outline

- 1. General information about Liechtenstein
- 2. Debate on state's duties & public services in Liechtenstein
- 3. Social services of general interest (SSGI) in Liechtenstein



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- Capital: Vaduz
- 11 Municipalities
- 6th smallest country worldwide
 - -Total area: 160 km2
 - -Population: 37 810
 - -Cross-border workers: 20 239
- 1818: Constitutional, hereditary monarchy
- 1921: Constitution (Const.)
 - -Right to initiative (Art. 64)
 - ⇒ Prince, parliament, 4 municipalities or 1 500 citizens
 - -2003: right to secession



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- 1923: Customs union agreement with Switzerland
- Law = influenced by
 - Swiss, Austrian & EU law
 - Monistic legal tradition
- Among others = member of:
 - ⇒1978: Council of Europe
 - ⇒1990: United Nations (UN)
 - ⇒1995: European Economic Area (EEA) & World Trade Organization (WTO)
 - International Monetary Fund (IMF)?



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Stages of appeal



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- Judges can

- be foreigners
- work part-time (e.g. as lawyers)
- Prison sentence ⇒ executed in Austria



2. Debate on state's duties& public services in Liechtenstein

2. State duties – public services in Liechtenstein



Landtag (wikimedia)

Recurring debate on state's duties and public services:

•Waiver:

⇒Maternity unit

➡ Psychiatry

- Communalisation:
 - Retirement homes (LAK -Liechtensteinische Alters- & Krankenpflege)
 - ⇒Radio Liechtenstein
 - ➡Waste disposal

2. State duties – public services in Liechtenstein



Landtag (wikimedia)



Privatisation:

 Legal guardianship for people in need
Debt counseling



- Gamprin-Bendern
- •Who provides public services?
 - Public undertakings

Private undertakings / NGO



Landesspital

3. Social services of general interest (SSGI) in Liechtenstein





Landtag (wikimedia)



Gamprin-Bendern

- Who provides public services?
 - Public undertakings
 - Private undertakings / NGOs
 - What rules must be respected when entrusting private undertakings with SSGI?
- 2. Which rules are applicable when the state supports private undertakings who provide SSGI?



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Conditions for entrustment

Art. 78(2) Const.

Specific affairs may be transferred by law or by virtue of legislative authorization to be handled independently by individual officials, Government offices or special commissions, subject to recourse to the collegial Government.

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Const. Court (StGH 1984/17)

Private organisations could be entrusted with public services





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Entrustment of private undertakings with SSGI

- Public procurement law (ÖAWG)
- Public procurement ordinance (ÖAWV)
- Procurement directive 2014/24/EU
- ➡ [Concession directive 2014/23/EU]



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State aid Art. 107(1) TFEU / Art. 61(1) EEA

- Intervention by the State or through State resources
- Affect on trade between EU and/or EEA States
- (Threat of) distortion of competition
- Incompatible with the internal market / EEA
- \Rightarrow Exceptions \Rightarrow SSGI
 - Case law (e.g. Altmark / BUPA)
 - Primary & secondary law



- Are there differences between EEA law and EU law applicable to SSGI?
- Is there room in EU/EEA law for a differential treatment of small states?

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