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Devolution and decentralisation in social security: the situation in Sweden

Titti Mattsson and Elin Osbeck

1 A general picture of the social-security system and the administrative structure

Social-security legislation was first introduced in Sweden in the late 19th and early 20th century. The literature on this topic suggests a number of different reasons for this timing. It was widely recognised at the time, for instance, that persons who relied on earnings from work for their upkeep needed some kind of insurance against loss of income. For a number of different reasons, namely, a loss of income could easily arise – among them sickness, a work-related accident, or the death of a wage-earner in the family. Some scholars point to the impact of the idea of 'social citizenship' here.

As a consequence, insurance against loss of income emerged in Sweden as early as in the late 19th century. It took the form initially of private funds financed by periodic fees. Members of the funds were thereby insured against sudden loss of income due to illness, a work-related accident, or the like. The funds were run by unions and tradesmen's associations. Some aspects of this insurance, such as terms of eligibility for joining the funds, were regulated by acts of Parliament in 1891 and 1910. At this point, membership of the funds was voluntary. Then, in 1931, a new act increased the element of state control and centralisation, by reducing the wide variety of sickness funds into one main fund for each municipality. Later, in 1947, the Universal Compulsory Sickness Insurance Law was introduced. Membership in this case was mandatory. The first period, in other words, was characterised by voluntary participation and private organisations; the following one by mandatory participation and public organisations.

During the first few decades of the 20th century, reforms were introduced in other areas of social welfare as well. Housing benefits, for example were introduced in the 1930s; and general child benefits – for supporting families and encouraging reproduction – were introduced in the 1940s. The numerous reforms of the time

were based on the idea that the state was responsible for the welfare of citizens, and that it should act accordingly. Many of the general principles on which Swedish social security is based today were developed during this period and the years following. The underlying idea was that social security should be universal, and that it ought to promote equality. All citizens, for example, must enjoy a 'reasonable standard of living'. This is a social right which the Social Services Act is supposed to guarantee to all residents of Sweden still today.

2 Devolution of government

2.1 *Remarks on the historical background*

During the 16th century, under the rule of Gustav Vasa, a relatively modern and centralised nation-state began to take shape in Sweden. The monarch in this period had great power. Subsequently, however, the Swedish parliament (the *Riksdag*) acquired substantial influence, balancing the power of the king. The early parliament, known as the Parliament of the Estates (the *Ständerriksdag*), provided for the participation of four societal groups: the nobility, the clergy, the burghers, and the peasants.

In 1809, a constitution known as the Instrument of Government was introduced in Sweden. The Parliament of the Estates continued until 1865, when it was replaced with a two-chamber system. This two-chamber system was then abandoned in 1971; now the Swedish parliament has just one chamber. A few years later, in 1974, a new constitution came into force.

It may be noted that there are four constitutional laws in Sweden. They are the Instrument of Government (Regeringsformen) from 1974 (mentioned above), the Act of Succession (Successionsordningen) from 1810, the Freedom of the Press Act (Tryckfrihetsförordningen) from 1949, and the Fundamental Law on Freedom of Expression (Yttrandefrihetsgrundlagen) from 1991.

The 1974 Instrument of Government – the central constitutional document and the relevant constitution for this chapter – sets out the overall organization of the Swedish state and furnishes the fundamental protections for democracy, human rights, and the rule of law. According to this constitution, Sweden consists in geographical terms of local and regional authorities. These are known as municipalities at the local level, and as county councils at the regional level. These authorities enjoy self-government.

Local self-government has deep historical roots in Sweden. The first steps towards it were taken in the 1860s. There were three different kinds of municipality ini-

tially: cities, market towns, and rural municipalities. The greatest challenge faced by the rural municipalities was to take care of their impoverished population.

With the societal changes of the early 20th century, and the concomitant establishment of a more modern and industrial society, the tasks of the local and regional authorities changed. The goal now was to build up the 'People's Home' (the *folkhem*), meaning the Swedish welfare state. It bears stressing here that the self-government enjoyed by local and regional authorities was by no means absolute. In certain respects, in fact, they operated more or less as local arms of the central government. Nor is their self-government absolute today, as we shall see below.

2.2 *Constitutional setting*

The current Swedish constitution – the Instrument of Government (SFS 1974:152) – came into force in 1974. Up until that date, the 1809 Instrument of Government had formally applied. However, the last fifty years of the constitution of 1809 have been termed 'the half century without a constitution'. During those years, namely, the king no longer exercised the considerable powers which he continued formally to possess. Moreover, for much of the period prior to the enactment of the new constitution in 1974, Sweden's constitution was the oldest still in force (formally) in Europe.

In 2011, several revisions to the 1974 Instrument of Government took effect. To some extent, the constitution was updated in order to reflect current conditions. Protection against discrimination, for example, has been extended to cover sexual orientation. The language was also made gender-neutral, as well as easier. Other revisions concerned the role of the Council on Legislation (the *Lagråd*),[1] which was strengthened; and the independent status of the courts, which was highlighted. The new text also makes explicit reference to Sweden's membership of the EU, the UN, and the Council of Europe.

According to the Instrument of Government, local and regional authorities in Sweden enjoy self-government. One important change in the Instrument of Government, relevant to the topic of this chapter, was the formalisation of the relationship between the central government and the local and regional authorities. Actually, an entire chapter was introduced to this end. Three of the six paragraphs in this chapter were simply moved there from other chapters, but three new ones were introduced, in order to clarify both the rights and the obligations of the local and regional authorities. The main purpose of the change was to call attention to the important role of these authorities in Sweden. The new version of Chapter 14 states

1. The authority which examines bills the Government intends to submit to Parliament.

that the power of decision within these authorities lies in the hands of elected assemblies; that said authorities handle local and regional matters on the basis of the principle of local self-government; that limitations on their self-government ought not to exceed what is necessary in view of the goals of the limitation in question; that said authorities may levy tax in order to fulfil their duties; and that they may be obliged to help defray the costs of other such authorities, if such be necessary in order to achieve equivalent economic conditions.

2.3 *Division of competences between levels of government*

2.3.1 *Structure of government*

As mentioned above, the Instrument of Government states that Sweden has local and regional authorities, and that these enjoy self-government. Traditionally, certain policy areas have been the exclusive responsibility of the central government, with no role for local or regional authorities. Security policy, military defence, and foreign policy are such areas. However, the line is not always clear between local self-government on the one hand, and the central government's conduct of security policy on the other. A recent matter illustrated the possible collision of local self-government and central state authority in this area. The municipality of Karlshamn, on the southeast coast of Sweden, wished to allow Nord Stream 2 (the Russian gas-pipeline project) to store pipes at its port. Although what happens at the port of Karlshamn is a local matter, the potential security risks involved made the matter an issue for the country's military and foreign-policy posture, and thus a concern for the central government. Initially, the government opposed to the project, and informed the municipality that it considered the project to risk to the safety of the country.[2] This may be said to illustrate the tension between local self-government and the government's exclusive authority.[3]

Other areas are more mixed or complex. Legislation and taxation are examples of areas where the different levels of government – the central on the one hand and the local and regional on the other – act in parallel. Only the central government in Sweden may *legislate* (i.e., enact law). Local authorities can also set legal rules, but these are termed *local regulations*. In the event of a norm conflict between legislation and regulation, the former takes precedence. Local regulation is also limited in the sense that, according to law, there are some areas which local and regional authorities cannot regulate. They may not, for example, set the terms of their own authority, competence, or organisation.

2. See www.svt.se/nyheter/inrikes/live-regeringen-om-ryska-gasledningen, retrieved 31 March 2019.
3. Ahlin, Per (2017), 'Regeringen ska sköta utrikespolitiken', *Förvaltningsrättslig tidskrift*, 2017:3.

Both the central government on the one hand, and local and regional authorities on the other, can tax citizens. 'State income tax' is levied by the former, 'local income tax' by the latter. Under the terms of the Local Government Act (SFS 2017:725), local and regional authorities may tax their 'members' in order to fulfil their duties. An individual is a 'member' of a municipality if he/she is registered there, owns property there, or is taxable there. A person is a member of a regional authority if he/she is a member of a municipality within that regional authority. It is open to question, however, just how autonomous local and regional authorities are in practice, particularly when it comes to setting tax rates for their members. In an effort to halt a trend towards rising tax levels in local and regional authorities during the 1990s, the central government imposed limits on local income tax. These limits were repealed later, but they pointed up the tension between local self-government and central-government authority in this area.

2.3.2 *Division of competences in regard to social security*

How then, broadly speaking, is the structure of Swedish government reflected in the division of competences in the area of social security? Traditionally, social security has been a matter for the central government. In our remarks on the historical background in sections 1 and 2.1 above, we touched on the early years of the welfare state. The 1970s, however, saw the start of a trend to grant greater competence to local and regional authorities in the country. In the 1990s, these authorities were given still greater responsibilities in a number of areas, such as education, elder care, and care for the disabled. The division of competences in this field thus presents a mixed picture, and the answer depends on what kind of social security is being discussed.

In the 1970s, a number of parliamentary acts assigned broader responsibilities to local and regional authorities in the area of economic support for citizens. The updated Social Services Act (SFS 2001:453) was and still is considered a 'framework act' – meaning that by means of it, the central government lays down a framework of goals for social-security policy. It is up to local and regional authorities, however, to decide how these goals are to be reached. The Social Services Act is 'general' legislation dealing with a number of matters. These include the right of all residents of Sweden to enjoy a reasonable standard of living; the right of vulnerable groups like the elderly and the disabled to receive care; etc. The Social Security Code (SFS 2010:110), another central piece of legislation, provides for economic support to individuals who are unable – due to illness, unemployment, parental obligations, or other reasons – to obtain their income on the labour market.

It is also important to bear in mind the relationship between the social-security benefits provided by the state and those offered by the trade unions. The state provides a minimum level of security, but this minimum can be 'topped up' in various

ways, such as through collective agreements or other benefits of union membership. Additional benefits of this kind include extra sick days, longer parental leave, and the like. Some collective agreements also provide insurance of various kinds. Many individuals, therefore, enjoy a higher level of social security than the minimum furnished by the state.

Health care is another mixed and complex area where the division of competences is concerned. However, the division here does not go between the central government on the one hand and local and regional authorities on the other; rather, it goes between local authorities and regional authorities. A new Health and Medical Services Act (SFS 2017:30) took effect in July 2017. However, most parts of the older version of this Act, from 1984, have simply been transferred into the new one. For example, there are no changes in the division of responsibilities for health care. Regional authorities are responsible for the main part of Swedish health care today, including all advanced health care (*sjukvård*) provided at hospitals. They are also generally responsible for providing other types of health care (outside hospitals) to their residents. The municipalities, on the other hand, are responsible for 'nursing care' (*omvårdnad*) on a less advanced level and for certain groups. In particular, they are responsible for care of the elderly and of the disabled. It was in the 1990s that responsibility for care of these two groups was divided between the two levels of government. Prior to that time, most of the responsibility for health care lay in the hands of regional authorities. We shall discuss the division of responsibility for these two groups further below.

According to the Law regulating Support and Service to Persons with Certain Functional Disabilities (SFS 1993:387), responsibility for health-care services and other support is divided between the municipalities and the regional authorities. The former are responsible for consultation and other personal support of the kind requiring special knowledge of the problems and living conditions of individuals with major and lasting disabilities. Daily support for such persons is often closely linked to health care. Health care of the kind requiring the help of a medical doctor, on the other hand, is the responsibility of the regional authorities. In other words, the municipalities are responsible for other kinds of health care and support. Thus, municipal responsibilities include organising personal assistance, furnishing economic support for such assistance, making contact persons available, offering short stays outside the home, and providing a number of other services. Furthermore, the Social Services Act (SFS 2001:453) charges the Social Welfare Committee within each municipality with ensuring that individuals with physical, mental, or other disabilities are able to take part in society, to hold a meaningful occupation, and to occupy living quarters that suit their needs. To this end, municipalities are to arrange accommodations with support and services suitable for such persons.

Under the terms of the Social Services Act (SFS 2001:453), municipalities are also responsible for health care (of the kind not demanding a medical doctor), as well as for support and services for the elderly. The task of the above-mentioned Social Welfare Committee is to ensure that elderly individuals are able to lead autonomous lives under safe conditions, and to enjoy an active and meaningful existence shared with others. To this end, the Committee is to ensure that such accommodations are offered to the elderly as meet their needs; and that such persons are provided with nursing, care, and other such support as they may require. Municipalities are also responsible for staying informed about the living conditions of seniors in their area. Due to demographic trends in Sweden, elder care is a rapidly growing area of the national care system, and its economic burden on the municipalities is increasing.

According to the Education Act (SFS 2010:800), the municipalities are responsible for education. In this context, 'education' refers to nurseries, nursery school, elementary school, elementary school for pupils with disabilities, upper-secondary school, upper-secondary school for pupils with disabilities, adult education, special adult education, and spare-time education. Prior to the 1990s, the central government was responsible for education. In that decade, however, the task was transferred to the municipalities. This relatively recent change is the subject of constant debate in Sweden. Critics of the current system argue that the task is 'too difficult' for the municipalities. They further claim that local financing results in inequalities between different geographical areas – a problematic matter, since education is a national rather than a local concern.

2.3.3 *Local responsibility, or solidarity between different local and regional authorities?*

Under the terms of the Local Government Act (SFS 2017:725), local and regional authorities may tax their members in order to fulfil their duties. Of course, different areas may have different socio-economic structures, and thus a stronger or weaker economic base for taxation. This can result in rather variable conditions for the fulfilment of the duties in question. In order to reduce inequalities between different local and regional authorities, the better-off authorities must assist the less favoured ones. This policy is sometimes referred to as the 'Robin Hood Tax', since it transfers resources from richer areas to poorer ones. This may indeed solve the immediate problem of lack of funding for poorer areas; however, the transfer of resources entailed is not uncontroversial. Due to the debate on this subject, and the demands which have been made for reforms in this regard, current arrangements may not represent a permanent solution to the economic difficulties faced by poorer authorities.

3 Decentralisation of government

3.1 *Remarks on the historical background*

In section 1, we reviewed the history of the Swedish welfare state briefly. That presentation was mostly chronological. In this section, by contrast, our review is theme-based rather than chronological. Over the course of the welfare state's development during the 19th and 20th centuries, a few different themes can be distinguished. One theme is *economic support* (i.e., cash benefits). Support of this kind may be means-tested. Or it may be universal, as in the case of child allowances. Support may also take the form of insurance, for covering sudden losses of income that can strike for various reasons. Another theme is the provision of *services*, such as nursing care for those unable to attend to their own needs (such as children, the elderly, and the disabled); as well as *active measures* of other kinds. A closely connected issue is *health care.*

In the late 19th and early 20th century, the Swedish parliament enacted several laws for the support of workers who suffer a loss of income. The late 19th century saw the establishment of insurance against loss of income due to sickness. As we mentioned in our introduction, this early legislation built on private organisations and voluntary participation. Subsequent legislation was based on the opposite: public organisations and mandatory participation. In 1947, for example, the Universal Compulsory Sickness Insurance Law was introduced. Membership of the fund in question was mandatory.

In 1911, Parliament passed legislation providing working mothers with some economic protection, for a four-week period after the birth of a child. The legislation was far from adequate, however. Women had to join a fund in order to obtain the benefit in question, and it was up to the fund to decide whether or not to provide support to a given mother. As a result, only about a seventh of those in need were actually granted economic support. Subsequent legislation in the 1920s and 1930s for support to mothers did not improve their situation much.

These, then, were two historical examples of benefits for the replacement of income lost (in the one case due to illness, in the other due to childbirth). In general, it can be said, legislation from the early 20th century up to the mid-1940s aimed at providing a 'safety net' for persons who relied on income from work for their upkeep.

In its early stages, state-organised care for the elderly involved both active measures and means-tested economic support. Prior to the 20th century, care of the elderly was considered a family responsibility. The 1809 Instrument of Government did declare that the state bore some responsibility for citizens in need, but respon-

sibility for the provision of care continued to rest with families until the early 20th century. In practice, this meant grown-up children were responsible for the care of their elderly parents. Almost always, moreover, this task fell to female members of the family. In 1918, the Poverty Care Act was introduced. Though not obvious from its name, the Act concerned the care of impoverished seniors in particular. Care was only to be offered if the individual in question could not get help from elsewhere. The support it provided, moreover, was means-tested. The underlying idea was that individuals were primarily responsible for their own upkeep. Those who applied for support had to submit to a fairly thorough examination and assessment. The 1918 Act may be said to have involved a mixture of active measures and economic support, inasmuch as it offered both care and accommodations on the one hand, and economic support for impoverished seniors on the other. Only individuals in a precarious economic situation were eligible. In 1947, however, means-testing was abandoned. Citizens would now be afforded the opportunity of living in elder-care homes according to their need for *care*, rather than according to their need for economic support.

Child allowances were first introduced in 1937, on a means-tested basis. Ten years later that was changed. Since 1948, therefore, child allowances have been a classic example of a universal benefit in Sweden, handed out to all parents irrespective of their economic standing. The aim initially was to encourage reproduction.

3.2 *Constitutional setting*

The Instrument of Government states, in Chapter 1, Article 2, that the 'personal, economic and cultural welfare of the individual shall be fundamental aims of public activity. In particular, the public institutions shall secure the right to employment, housing and education, and shall promote social care and social security, as well as favourable conditions for good health.' Although phrased in a manner suggesting a set of individual rights, this paragraph is instead to be understood as a set of general goals for public activity. Thus, while public institutions should certainly try to achieve these goals, they cannot be sued if individuals are out of work, are forced to leave their home, or are unable to attend the educational institution of their choice. This 'goal-setting paragraph', then, is unenforceable. Yet it is not unimportant. Indeed, it might be thought to impose a limit on local self-government – i.e., as requiring that local and regional authorities take concrete measure to achieve the goals in question.

3.3 *Functional decentralisation versus territorial decentralisation*

The general principle is that the authority exercised by local and regional bodies in Sweden is territorially based, but the situation in that regard is not clear-cut. This is

most clearly illustrated by the role of the county administrative boards. These bodies represent the central government within each county, and their function is to coordinate the activities of the state therein. They are tasked with ensuring that all residents of the county in question receive local services, that companies and authorities in the county comply with laws and regulations, and that objectives chosen by the central government for the nation as a whole are duly pursued by the various agencies and authorities within the county. Other duties include coordinating certain activities in connection with areas of national concern, such as housing, integration, transport, infrastructure, gender equality, animal protection, social development, the environment, the labour market, and the business community.

3.4 *Power at the local level*

3.4.1 *Introduction*

According to the Local Government Act, local and regional authorities may handle matters of public interest connected to their geographical area. The two central principles set out in the relevant paragraph concern the general competence of these authorities on the one hand, and the so-called localisation principle on the other.

Let us begin with the general competence of these bodies. For a given action to fall within the general competence of a local or regional authority, it must be appropriate, reasonable, and the like that for said authority to deal with the matter. According to case law, it is not sufficient that a given action not violate a public interest. It must also be carried out in pursuit of a public interest connected to the authority in question.

According to the localisation principle, the action of a local or regional authority must also have a connection to the area served by that authority. It is neither necessary nor sufficient, however, that the action be performed within the borders of said authority. The key point is that the matter be *connected* to the authority or its members; and also that it not be a matter attended to solely by the central government, another local or regional authority, or other body. As mentioned above, for example, local and regional authorities may not handle matters over which the central government has exclusive competence, such as defence, national security, and foreign policy. Local and regional authorities must also treat their members equally, unless there is objective cause not to do so. Finally, unless extraordinary reasons dictate otherwise, they may not make retroactive decisions detrimental to their members.

In addition to the rules on competences which it lays down, the Local Government Act states that other acts as well set out specific competences and obligations for local and regional authorities. The Social Services Act does so, for example. One important element here, not least from the standpoint of devolution, is that local and regional authorities can hand over some of their operations to other bodies, including private companies. The Act on System of Choice in the Public Sector (SFS 2008:962) is relevant here – see section 3.4.4.

3.4.2 Policy

National provisions on the powers of local and regional authorities do allow them, to some extent, to set stricter standards in particular areas. One such area is housing, where such authorities may impose technical requirements for property – regarding the use of energy, for example – which are more stringent than those featured in the national building rules. The same applies in connection with traffic standards, cleaning schemes, and local order statutes.

As mentioned above, moreover, national legislation allocates certain powers to local and regional authorities in specific policy areas. Such provisions often leave them room to set their own standards. Areas where this applies include tourism, youth activities, and work and activities for the disabled. Other provisions regulate actions by such authorities outside their own territory or in connection with commercial matters (e.g., electric-power generation and trade, or the management of sewer plants in other municipalities for commercial reasons).

3.4.3 Assessing claims and providing services

The Instrument of Government states, in Chapter 14, Article 2, that 'the local authorities are responsible for local and regional matters of public interest on the principle of local self-government. More detailed rules on this are laid down in law. By the same principle, the local authorities are also responsible for other matters laid down in law.' The Article says little, however, about how claims are to be assessed, or which services are to be provided. This determination is left to the local or regional authority in question. Where formalities are concerned, the Administrative Procedure Act (SFS 2017:900) and the Local Government Act set out in considerable detail how decisions are to be taken, and by whom. The Health and Medical Services Act, moreover, assigns major responsibility for health care to the regional authorities, and specifies the decisions which said authorities may take in this field. The Act also sets out how claims are to be assessed. It does so, however, in a manner which is often quite vague, leaving considerable room for discretionary decisions by the regional authorities. In Chapter 3, Article 1, for example, it states simply that the objective of policy in this area is 'good health for the whole population'.

The Social Services Act also sets out general objectives. It states, for example, that decisions on eligibility for assistance are to be based on whether the persons in question are 'unable to provide for their needs', and on whether they are 'at the disposal of the labour market'. The amount of assistance granted should be such that, '[t]hrough the assistance, the individual shall be assured of a reasonable standard of living'. Furthermore, '[t]he assistance shall be designed in such a way as to strengthen his or her resources for independent living'.

The Health and Medical Services Act and the Social Services Act set out many of the objectives which local and regional authorities are charged with fulfilling. The latter in turn enjoy substantial leeway in how they do this. What does this mean for the rights of individuals? To ensure fairly uniform results and avoid undue geographical variation, individuals may appeal to a court for a review of decisions made in areas like social assistance. In such areas as health care, however, individuals cannot appeal to a court regarding decisions made. Instead, these decisions are subject to monitoring by a national supervisory body.

3.4.4 Local authorities and third-party service delivery

In 2008, Parliament passed the Act on System of Choice in the Public Sector (SFS 2008:962). This Act gives individuals the right to choose between different suppliers of publicly procured services. The substance of the Act is mainly devoted to setting out how public authorities are to treat potential and contracted service providers. The practical effect of the Act has been to open the door to a wide range of service providers in a number of social-security fields – fields where the public authorities had previously enjoyed a monopoly. In other words, a market for welfare services has emerged. An example of this can be seen in the growth of private provision in the area of elder care, where the municipalities nowadays are just one of many providers in many cases. Child and youth care is another area marked by the trend towards privatisation and marketization.

The market for private care providers is relatively free, even in the area of health care. Moreover, since EU citizens enjoy freedom of movement in the health-care sector, there are several key EU directives that facilitate the free movement of eHealth services. These directives, together with flexible Swedish regulations which have facilitated entry into the health-care sector, have enabled private health-care providers to shape much of the current eHealth landscape. The private health-care sector was very small in Sweden traditionally, but it has grown considerably over the last two decades. The emergence of eHealth has added greatly to this growth, as many services in that area are provided by the private sector. There are both advantages and drawbacks to this trend. One advantage, of course, is the greater breadth of the market, with the improved opportunities it affords to obtain customised health care. However, this increased diversity – of health-care provid-

ers, products, and services – gives rise to problems in connection with quality assurance on a national basis. The health-care system risks failing to achieve the primary goal laid down by the central government for the country as a whole: namely, good health and the provision of care on equal terms to all, as stated in the Health and Medical Services Act, Chapter 3, Article 1.

One key feature of the trend towards privatisation in Sweden must be borne in mind: the system is still publicly funded. Individuals can choose amongst the available providers, but the public sector remains responsible for the financing. This trend towards publicly funded freedom of choice has been the subject of political debate, amongst other things in relation to the profits made by private companies engaged in providing welfare services. It has been suggested that Parliament should pass legislation limiting profits, in order to ensure that tax money does not 'end up in the pockets of private companies'. A government-appointed commission did issue a report on the possibility of limiting the profit margins of such companies; however, under the terms of an agreement between four of the parties represented in Parliament (the 'January Agreement'), the current government may not act on this report or pursue the matter further during the current term (i.e., until the next election, scheduled for 2022).

3.4.5 Supervision

The central government advises and supervises local and regional authorities, through agencies like the county administrative boards, the National Agency for Education, and the National Board of Health and Welfare. Such supervision may involve both auditing and support. These agencies cannot invalidate decisions made by local or regional authorities, but they can institute court proceedings in some cases, or impose fines on the authority in question. They can also address offenses or other problems by informing the central government of shortcomings.

In a limited number of areas – in connection with some regional issues regarding food, fire safety, and the environment – the central government has delegated supervisory responsibilities to local and regional authorities. Furthermore, auditors are appointed by the general assembly of each local and regional authority. These auditors review committees, boards, municipalities, and county councils on an annual basis. In addition, residents have the opportunity to appeal decisions made by such authorities in court. The court may then overturn the decision, wholly or in part, but it cannot replace it with a new decision. In the case of decisions regarding an individual – on an application for social security, a request for a building permit, or the like – the individual concerned can appeal the decision. Appeals of this kind are known as administrative disputes, and in such cases a court can replace the contested decision with a new one.

3.4.6 *Financing*

Under the terms of the Local Government Act, local and regional authorities may charge fees for the services they provide. However, they may do so only for business conducted on the basis of their general competence, as described above. In the case of services that these authorities are obligated to provide, fees may be charged only if this is explicitly prescribed. Nor may these authorities charge fees in excess of those needed to cover their costs for providing the service. This is known as 'the self-cost principle' (*självkostnadsprincipen*). Fees charged in excess thereof must be credited to the company or individual who paid the fee and kept separate from other resources.

As mentioned above, a large portion of social security is furnished by trade unions, to their members. The state provides a minimum level of security, but this is topped up in several areas – ranging from sick days to parental leave – by benefits derived from union membership or collective agreements. This not insignificant area of social security is financed by union membership fees. It also bears noting that some employers not bound by a collective agreement provide corresponding top-ups to their employees on a voluntary basis, as such top-ups have become market practice on the Swedish labour market to some extent.

3.4.7 *Client involvement*

As mentioned earlier, an individual is a member of a municipality if he/she is registered there, owns property there, or is taxable there. Moreover, an individual is a member of a regional authority if he/she is a member of a municipality within that regional authority. Membership is important not only for a person's obligations, such as payment of taxes, but also for his/her individual rights, such as the right to influence an authority's policies and decisions.

There are several ways to influence policy and decision-making in a local or regional authority. Direct involvement in the assembly is one. To be eligible to stand for election in such an assembly, an individual must amongst other things have the right to vote in elections to that assembly. Otherwise put, voters and candidates must come from the same group. To have the right to vote for such an assembly, an individual must be registered in the authority in question. Members of the assembly can propose motions and ask questions. Those who are members of a committee can raise matters. Assembly meetings are usually public. The assembly may decide, however, that certain questions require deliberation behind closed doors. Such secrecy is limited to the actual deliberations. The decision to 'close the doors' must be public, and decisions resulting from such deliberations must be publicly posted as well.

Furthermore, a member may demand that an administrative court assess the legitimacy of a decision made by an assembly or committee. However, such a decision can only be revoked if formal deficiencies in the decision-making process come to light. It is not enough that the decision be substantively 'bad'. Furthermore, when a fault in the process has no impact on the outcome, the decision need not be revoked.

3.4.8 Paradoxes of decentralisation?

The trend towards decentralisation is marked by several paradoxes. Seller and Lidström, and Holosko et al, note the paradox whereby the leeway for local action has expanded significantly, even as both legal frameworks and financial concerns have limited opportunities to make use of this leeway.[4] Thus, while local and regional authorities have generally acquired greater formal powers, they may not possess the resources to reach the goals set out in national regulation or in local policy.

Increased local powers have also come to mean more duties to report to the central government. In many policy areas during recent decades, supervision of local and regional authorities by the central government has clearly increased.

In addition, increased responsibilities in several areas, combined with regulatory requirements imposed (with or without financing) by the central government, can create difficult boundary issues for local and regional authorities. On occasion, these even have to be resolved in court. This can lead to questions about how decentralisation impacts effectiveness, as well as due process and the rule of law.

The relationship between the central government on the one hand, and local and regional authorities on the other, is often tricky when the former attempts to direct the latter by various means, such as through financial incentives. There is a trend, for example, towards an increased use of time-limited projects. This is often seen in the area of regional policy, where co-financing between different levels of government is often necessary. To be successful, then, decentralisation must be based on effective cooperation between the central government and local and regional authorities. This may be complex and hard to organise, but the collaboration and shared financing it affords can also make for clear advantages.

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4. Sellers, Jeffery and Lidström, Anders (2007) 'Decentralization, Local Government, and the Welfare State', *International Journal of Policy, Administration, and Institutions*, Vol. 20, No. 4, October 2007, p. 619; and Holosko et al., 'Social Services in Sweden: An Overview of Policy Issues, Devolution, and Collaboration' in *Social Work in Public Health*, 24:210-234, 2009, p. 227.

4 State of the debate and future prospects

4.1 *Arguments in favour of devolution and decentralisation*

Devolution and decentralisation can enhance local autonomy. They may also promote innovative thinking about how to address social needs in areas where special conditions prevail. Furthermore, a more direct link between residents on the one hand, and organs of political or other power on the other, may result in greater direct participation in the democratic process. In some rural areas of Sweden, for example, municipalities have deemed it necessary – for the sake of efficiency and budgetary balance – to close down small schools. As a result, pupils have had to commute to more distant schools. Individuals in some of these communities have therefore opened private schools instead, which have managed to stay open despite apparently operating under the same conditions as the previous schools under municipal management. In this context, it might be noted that an amendment to the Health and Medical Services Act came into force in 2019. According to the new wording, in Chapter 7, Article 2 a, county councils shall organise health and medical services in such a way as to ensure that care is provided close to the population. If considerations of quality or efficiency so dictate, however, health care may be concentrated geographically. This illustrates the dilemma that many local and regional authorities face: Should services be offered locally, even if the financial cost be greater? Or should they concentrated for the sake of efficiency?

4.2 *Arguments against devolution and decentralisation*

According to Holosko et al., one major reason for the trend towards devolution in social security is lack of funds. The authors claim that, when central governments are unable for various reasons to fund welfare programmes themselves, they transfer the burden to local governments. This is not problematic in itself. From a policy perspective, however, it can be problematic if the trend towards devolution is depicted as a response to a need for greater local autonomy, rather than as a solution – and it may not even be that – to an economic problem.[5]

What then is problematic, as Holosko et al. see it, is when local authorities are required – on the basis of limited resources – to furnish social security and to provide for other needs.[6] As mentioned earlier, this problem has been addressed to some extent in Sweden by means of the 'Robin Hood tax', which transfers resources from wealthier areas to less fortunate ones. This may solve the immediate problem of lack of funding for poorer areas, but such transfers are not uncontroversial.

5. Holosko et al. (2009), p. 227.
6. Ibid.

One might question the burden they place on better-off communities, and media commentators often do. Current arrangements in this regard may not be politically sustainable.

4.3 *Plans, visions, and dreams*

During the last decades of the 20th century, several profound changes took place in society which have decisively affected conditions for the exercise of public responsibilities by local and regional authorities. EU membership, economic globalisation, and the digital revolution are some examples. Ongoing changes in the age structure of the population, and the many consequences flowing from these, have also had a major impact on the conditions under which local and regional authorities must operate. Furthermore, the ability of such authorities to cope with their care responsibilities is affected by such matters as the geographical distribution of talent across the country. As a general matter, large discrepancies exist in this regard between inhabitants of the countryside and their counterparts in the big cities. One central question in this context is how the rapid changes taking place in society challenge the relationship between the central government and local and regional authorities. The responsibilities borne by the latter are highly diverse, and intertwined with one another besides. These bodies must discharge core obligations demanding a high level of service, even while promoting regional development, engaging in international cooperation, and collaborating with private and other actors.

This raises questions about the basic competences granted to local and regional authorities. For example, national legislation has not yet caught up with the rapid developments in eHealth taking place with these authorities as well as private actors in Sweden. As a result, responsibility at the national level has become less clear. One concern is that rapid technological developments in this sector may induce local and regional authorities to try to resolve new problems on their own. It may be difficult, namely, to devise appropriate national rules for a sector undergoing such rapid change.

In section 3 above, we distinguished between economic support on the one hand, and the provision of care on the other. Transferring responsibility for the latter to private providers may be a reasonable option. However, transferring responsibility for assessing claims and making payments in the former area would seem to be more complicated. According to classic Swedish precepts on social welfare, namely, tasks of that kind fall squarely within the remit of the public authorities. In future, therefore, we may see a clearer division between the provision of care and the allocation of benefits, with the distinction being based on who carries out the task. Thus, the public authorities may transfer the actual provision of care to other

actors, while retaining for themselves the power to decide who merits economic support, and under what conditions. The resulting picture is a complex one, wherein competences in the area of social security in Sweden will be divided between the central government, regional authorities, local authorities, and various private actors.