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SUMMARY



# The Municipalities, the County Councils and Europe

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# The Municipalities the County Councils and Europe

## Summary

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# The Municipalities the County Councils and Europe

Summary

NORSTEDTS TRYCKERI AB  
Stockholm 1994

## Foreword

In February 1993 Sweden began negotiating for membership of the European Community. Since 1st November 1993 the negotiations have been based on the Treaty on European Union ("the Maastricht treaty") and have referred to membership of the European Union.

During the spring of 1993 the Swedish Government appointed six different Commissions for the purpose of elucidating the consequences of Swedish participation in European integration, and in particular the implications for the national economy, welfare and equal opportunities, the environment, sovereignty and democracy, and foreign and security policy. One of the six remits concerned the implications for municipalities and county councils.

This publication summarises the main conclusions presented, in a report entitled "The Municipalities, the County Councils and Europe" (SOU 1994:2), by the Commission set up to investigate the consequences for municipalities and county councils.

Sören Häggroth

Chairman of the EC/EU Consequences Commission on Municipalities and County Councils.

## Foreword

In February 1997 Sweden began negotiating the membership of the European Community. Since its formation (and its negotiation have been based on the Treaty on European Union (the Maastricht Treaty)) and have taken to membership of the European Union.

During the spring of 1997 the Swedish Government approved an additional Commission for the purpose of studying the consequences of Swedish participation in European integration and to facilitate the implementation of the national strategy, welfare and equal opportunities, the environment, security and society, and foreign and security policy. One of the key results concerned the implications for investigation and security research.

The following summary of the study is based on the report, as a result of the study, the Swedish Government and the Swedish Parliament (the Riksdag) in 1997. The Commission set up to investigate the consequences of the investigation and security research.

Stefan Hultqvist

Chairman of the ECVI Committee on European  
and Security Research



## Introduction

The Treaty of Rome of 1958 is still the basic document for European co-operation within the EC. The Single European Act (1986) and the Union Treaty (Maastricht, 1992) are both revisions and augmentations, albeit thoroughgoing and comprehensive, of that treaty.

The purposes of the Union Treaty include closer economic and monetary co-operation between the Member States of the EC, greater co-ordination of foreign and security policies, and increased mobility of persons - the establishment of a European Union, the EU. This treaty establishes phases of development for the Economic and Monetary Union (EMU) and rules of admission to it. The same treaty also lays down the principle of subsidiarity (Article 3b).

The Agreement on the European Economic Area (EEA) gives Sweden and other EFTA countries (except Switzerland) access to the single market. In Sweden's case, the agreement entails a good deal of legislative work, due to our adoption of a large part of previously enacted EC legislation - nearly 1,500 acts in all.

The Riksdag (i.e. Sweden's parliament) passed the EEA Act (EES, SFS 1992:1317) in December 1992, with effect from the New Year 1994.

Municipalities and county councils are affected by the EEA Agreement in a number and variety of respects. The most palpable of these in the short term is that municipalities and county councils will in future have to conform to the EEA rules of public procurement. Municipalities and county councils are also affected by rules on state subsidies and by directives and ordinances in various fields of activity, including the environment.

Local self-government occupies a strong position in Sweden, and in the course of public debate a number of questions have been asked about the implications for municipalities and county councils of different forms of participation in Western European integration. Those questions concern, for example, what changes will occur in the basic conditions for local government activities. But more fundamental questions are also being asked, concerning the possibilities of safeguarding strong local self-government in an increasingly internationalised decision-making environment.

In our analysis of the consequences for municipalities and county councils of different forms of participation in Western European integration, we have taken the following main alternatives as our starting point:

1. Sweden accedes to the Agreement but does not become a member of the EC/EU.
2. Sweden becomes a member of the EC/EU.
3. Sweden remains outside both the EC/EU and the EEA Agreement.

We present analyses and assessments referring to both direct and indirect consequences of the above alternatives. The direct consequences can as a rule be easily identified by comparing EC regulatory structures with Swedish legislation. The indirect consequences, on the other hand, are harder to assess. Certain indirect consequences of participation in EC/EU co-operation are likely to appear in a longer chronological perspective. Added to this, it is to be expected that internationalisation generally will have an impact on Swedish municipalities and county councils which can be hard to distinguish from the consequences of EC/EU membership.



## Local and regional self-government in Western Europe

We have prepared a review of EC/EU organisation and the drafting and policy-making process of the EC/EU and, secondly, a broad overview of different local government systems in Europe and of local and regional development tendencies. Considerable space is devoted to regionalisation in Europe. In the ongoing discussion of relations between the EC/EU and member states, regional and local levels have come to figure more and more prominently. Municipalities and regions are expected to play an increasingly vital part in European co-operation. This is reflected, for example, by the setting up, through the Maastricht Treaty, of the Committee of the Regions - an advisory committee of 189 representatives of regions and local communities.

Local self-government in Sweden, as in the rest of the Nordic area, is very advanced by European standards. Sweden's municipalities and county councils are to a great extent responsible for the realisation of national welfare policy. They have far-reaching powers of their own and can exercise a high level of self-government. This is partly due to a large proportion of their activities being financed out of local income tax.

We draw attention to a number of development tendencies in the local and regional communities of Europe:

- \* There is much to suggest that local authorities will have to go on living under severe financial constraints for the immediate future. The different parts of the continent have been brought close together in recent decades, both economically and politically. This has been manifested through far-reaching institutional co-operation.

- \* There is a clear tendency for local communities to focus more and more attention on conditions outside their own national boundaries. Increasing numbers of local authorities, for example, are opening information offices in Brussels, either single-handed or jointly. New co-operation regions are being established across national boundaries.

- \* In several European countries there has been a transfer of functions from central to regional level in recent decades. There is much to suggest that this regionalisation will be further reinforced.

The institutional structure of Western Europe at local and regional levels is one of great diversity. This in our opinion reduces the likelihood of efforts towards Western European integration being concerned with achieving a more uniform political and administrative structure at local and regional levels. No such aspirations are included in current sketches for the future of the European Union.

If Finland, Norway and Austria together with Sweden become members of the EC/EU, this will mean the entry into the Community of four more countries with a decentralised model of society. This, we believe, could affect attitudes to local and regional self-government in future EC/EU co-operation.

Perhaps the most interesting development today is the new forms of inter-municipal and inter-regional co-operation which are emerging in various places all over Europe. The modernisation of enterprise and infrastructure is, as a general rule, the starting point for new patterns of co-operation.

Regions arising out of economic needs are seldom adapted to administrative boundaries, which leads us to believe that the regional boundaries of tomorrow will be based, more than at present, on interpretations of the forces of change at work within enterprise and social development in the broad sense, and on the formations adopted in response to new demands.

We believe that regional boundaries are going to become more and more flexible in future, thereby opening up greater possibilities for forming coalitions, establishing co-operation and tying regions or localities more closely to each other across and within regional boundaries with reference to various interests, mostly economic.

As we see it, the tendencies towards a growing pursuit of closer regional co-operation across national boundaries have been influenced by European integration. Exchanges between neighbouring regions are stimulated as a result of national boundaries losing their importance.

However, we do not view this development solely as a result of EC/EU co-operation. Cultural and ethnic aspirations, as well as competition between different urban regions, can also help to explain the regionalisation of Europe. In Sweden too, we can distinguish growing efforts towards regional co-operation.



## Changed conditions for municipal self-government

We present our assessments of the changes which certain basic pre-conditions of municipal self-government will undergo as a result of, respectively, an EEA Agreement and EC/EU membership. Above all we refer to:

- \* The subsidiarity principle and municipal self-government.
- \* The EC legal system and municipal self-government.
- \* EC regional policy - necessity and stipulation of co-operation at regional level.

The subsidiarity principle as a political term is rooted mainly in Catholic social theory. As a political principle it has been launched as an instrument for dividing authority within the EC/EU between the institutions of the Union and its member states.

The subsidiarity principle is most clearly expressed in that part of the Maastricht Treaty dealing with amendments to the Treaty of Rome in order to establish the European Union, namely Article 3b in Title II. This article has three components, which, from various starting points, define limits to the exercise of power by the common institutions:

1. The competence of the Community does not extend beyond the frames and powers conferred on it by the Treaty of Rome; this is termed the legality principle. The Member States transfer competence to the common bodies, at the same time as the competence of the Community is confined to the areas in which a transfer has occurred.

2. The principle of subsidiarity applies solely within those areas in which both the EC/EU and its member states are competent to act, i.e. areas of shared competence.

The principle of subsidiarity does not apply in those policy areas where the EC/EU has exclusive competence, e.g. agriculture, fisheries, transport, competition and trade.

3. The EC/EU shall not regulate activities more than is necessary in order to achieve the aims of integration; this is termed the proportionality principle. Basically, Community action must as far as possible leave the Member States free to choose the form of the measures

required in order to achieve the aims of the Community. In addition, measures by the Community must be taken in the simplest possible form compatible with achieving the result intended: that is, directives are to have priority over regulations, general directives over more detailed directives, and so on.

The subsidiarity principle forms the basis of a theory of society which stipulates that decisions are to be made at the lowest possible level. In this perspective, in the EC/EU context, the principle is to be construed as a proximity principle, in the sense that normative competence is primarily to be vested in the Member States and the Community is only to act when necessary and essential in order to achieve the aims already defined.

The subsidiarity principle also includes a remote dimension. Larger units, i.e. the Community, should be allowed to act when actions at supranational level make better provision for the aims of integration than could be achieved by measures at national level.

If the subsidiarity aspect is given priority, this means toning down the need for further Community inputs, while if the remote aspect predominates, this amounts to saying that the goals of the integration process are to override the goals with a more narrowly national definition.

The fact of several Member States, including Denmark and the United Kingdom, but also Germany to some extent, wishing to limit the supranational elements of integration augurs in favour of the subsidiarity aspect as a benchmark of continuing work within the EC/EU.

The Commission has put forward a list of EC legislative proposals which could be improved by less detailed regulation or entirely retracted, but it is also in the process of weeding out legislation which is no longer relevant within the Community or is incompatible with the principle of subsidiarity. The Commission has also been instructed to list and define ways in which existing and future legislation can be adapted to the subsidiarity principle.

Subsidiarity as a power-balancing instrument in relations between the EC/EU and its Member States means, in principle, that subsidiarity stops short at national boundaries. National power sharing within the Member States is not affected. As long as this remains the case, subsidiarity is unlikely to have any direct consequences for municipal self-government in either the short term or the long term. On the other hand, indirect effects may result from interaction between the state in Sweden and the EC/EU.



In our opinion, the subsidiarity principle in the strict sense is not applicable to the allocation of functions between the state, the county councils and the municipalities in Sweden. But one cannot exclude the possibility of subsidiarity as a political principle coming to influence the Swedish debate on how public activities should be organised.

We believe that the proximity aspect of the subsidiarity principle will continue to be applied in the making of EC legislation, which would favour the preservation of municipal self-government in Sweden.

It is our belief that the effect of EC law on constitutional municipal self-government in Sweden will be limited.

This means, for example, that the constitutional right of taxation can be preserved both when the EEA Agreement enters into force and in the event of EC/EU membership. We wish to point out that the Commission on the Swedish Constitution and the EC (SOU 1992:14) stated that, in the event of a future common policy within the EC/EU demanding a reduction of the total scope for taxation, it was primarily the scope for national taxation which ought to be reduced.

The big changes for the municipalities and county councils will come with the EEA Agreement, which takes effect at the New Year 1994. Three essential areas of legislation are affected by the EC regulatory structures, namely:

- \* The EC rules of procurement, which among other things require competitive purchasing.

- \* The EC rules on state aid, which among other things restrict the scope for subsidisation of enterprise.

- \* EC environmental legislation, which makes heavier demands on environmental impact assessments at local level.

Sweden's accession to the EEA Agreement entails the adjustment of Swedish law to Community law in these three areas.

The EC rules of procurement amount to a formalisation of the previously unregulated procurement procedure, but this is unlikely to make very much difference to municipal self-government. It is a fact that members of a municipality will no longer be entitled to challenge the legality of municipal purchasing decisions, but on the other hand, insight and control will continue to be exercised by elected representatives.

The EC rules on state subsidies amount to a new detailed control, but they can hardly be termed a restriction of the actual scope for



subsidies to enterprise, compared with the rules of the new Local Government Act passed by Sweden in 1992. We see little likelihood of the government being forced to overrule municipal awards of enterprise subsidies contrary to the EC rules, because in practice the Swedish Local Government Act at present gives municipalities and county councils very little opportunity for awarding direct subsidies to enterprise. In fact, the EC rules can be looked on as more permissive, and at all events more flexible, than Sweden's, which could eventually lead to a reappraisal of the Swedish view on local government support to enterprise. The parliamentary Local Democracy Commission (Dir. 1992:12) has recommended in a special report, *Municipal Enterprise Policy in Denmark* (SOU 1993:112), an investigation of local and regional enterprise policy in Sweden, with reference to a number of questions relating among other things to the EEA Agreement and possible Swedish EC/EU membership.

The stipulation requiring municipalities to prepare environmental impact assessments in certain cases is certainly a new local government commitment, but we cannot see that it involves very much interference with local self-government.

In Denmark's experience, local government activities have been affected by EC membership, but in the longer term this seems to have been due more to growing dependence on the outside world than to EC membership as such.

An interesting development can be discerned as regards the possibilities of expanding municipal competence. The EEA Agreement has the effect of strengthening international co-operation, which can augment the scope for independent action by local authorities and county councils. New legislation may come to be considered which allows municipalities and county councils to augment their activity in the international context.

Municipal competence also has to be interpreted by the courts in accordance with social developments, and on this point judicial practice is likely to change with the passing of time. Ultimately, however, it is the Riksdag which decides the apportionment of competence between the state, the municipalities and the county councils. As a Member State of the EEA or of the EC/EU, Sweden will have to guarantee effective implementation of Community law at sub-national level.

Below, a more detailed account is given of other direct and indirect consequences for both mandatory and optional municipal activities.

Conditions in Europe are characterised by the rapid development of new forms of co-operation at regional level, in some cases cutting across national boundaries. EC structural policy and Structural Funds

have been and remain an important reason for greater co-operation, even though regional development is also taking place independently of Structural Fund Support.

The regional development work initiated through the EC Structural Funds represents a new working model. One of its foundation stones is the partnership concept. The Commission has issued clear directives on a working approach involving regional and local agents in the work of regional development, as a precondition for regional entitlement to support from the funds. The Commission does not interfere with the organisation by Member States of their programming work or in the matter of which agents are to be primarily responsible for the conduct of work, so long as the states comply with the working plan adopted.

Our impression from the countries studied is that work with the Structural Funds can be described with the aid of four concepts: long-term thinking, intersectorial perspectives, partnership and priorities.

The regions in Sweden which could come to be considered for support from the EC Structural Funds must be able to create an organisation which will assume considerable responsibility for the work implied by the Structural Fund programmes. This involves drawing up the programmes and putting them into effect.

Experience from the EC countries of Europe shows that both existing and newly created regional bodies are managing structural programmes. On a more concrete plane, this work has given regional and local agents a more diversified working field and greater scope for action.

We regard increased co-operation between the public sector and enterprise as a precondition of economic growth. In this respect, developments in EC regions can provide both scientific background and inspiration.

In our opinion, a new way of working with regional development questions will also demand dedication on the part of political representatives at local and regional levels.

The subsidiarity principle is being applied as a proximity principle in EC rules of procedure for development programming and project implementation. Through this process the local and regional level comes into direct contact with EC institutions, and possibly too with other regions in Europe, depending on programme design and content. In our belief, therefore, local and regional level will be able to assume a more prominent role in regional policy.





## Municipal and county council activities

In this section we review the respective implications of the EEA and the EC/EU for the various activities of municipalities and county councils.

### *Free mobility*

The consequences, above all where social services, health and medical care and education are concerned, will hinge on the extent to which people avail themselves of the opportunity to settle and work anywhere in the EEA states and, in the event of EC/EU membership, anywhere within the EU.

Partly in view of the low level of mobility in the Nordic area, where migration has long been unrestricted (not including recruited labour immigration from Finland) and in view of the low level of mobility hitherto between the EC/EU Member States, we do not anticipate any notable mobility from other EEA states to Sweden. We believe that mobility could increase above all in the sense of highly qualified persons and students preferring to work in some other EEA country or in a different part of the world altogether.

Thus we do not expect EEA Agreement provisions and EC/EU regulations on free mobility, generally speaking, to have any appreciable effect on municipal and county council activities.

### *Immigration and refugee policy*

Immigration and refugee questions are not dealt with in the EEA Agreement, and we cannot see that municipal or county council refugee activities will be noticeably affected by possible EC/EU regulation in the future. It is impossible to judge at present whether a common immigration policy will be more or less restrictive than Sweden's policy at present. The option of non-participation by Sweden in the EEA and EC/EU would mean immigration and refugee policies being framed on a national basis, as they are today.

### *The social dimension*

The EC social dimension emanates from working life and has the aim of counteracting negative effects of increased competition between companies and of the free movement of capital. It is also aimed at promoting free movement of persons/labour.

In other words, the social dimension comprises what we in Sweden are accustomed to regard mainly as questions of labour market policy: employment, labour law and working conditions, vocational training, the working environment and a social dialogue between the labour market parties at EC/EU level. Gradually, however, EC involvement has come to include an increasing number of areas concerned with social welfare and security, especially care of children and the elderly, alcohol and drug policy and questions concerning the disabled.

It should be pointed out that, up till now, EC work within the social dimension has been concerned with laying down guidelines in the form of action programmes and recommendations to the Member States. Binding instruments and directives exist for just a few areas.

The EC Structural Funds are an important part of the social dimension. Under the EEA Agreement, Sweden contributes towards the EFTA Fund for Social Equalisation, programme co-operation and institutions. In the event of its joining the EC/EU, Sweden would contribute towards the EC budget and would be entitled to apply for fund grants on the same terms as other Member States.

In the field of labour law we deal with the question of realising EC directives in the form of collective agreements at national level, and also with a number of directives which have been adopted. We consider it very likely indeed that Sweden, if it becomes a member of the EC/EU, will, like Denmark, become entitled to implement directives in the form of collective agreements.

The EC directive on job security in connection with changes of company ownership will come into force as soon as the EEA Agreement begins to be applied. This, in our opinion, can have certain consequences for the ability of municipalities and county councils to transfer local government activities to other management. Under the directive, the transfer may not in itself be a cause of changes to conditions of service or of dismissal by the employer. A dispute concerning the interpretation of the directive may be resolved by adjudication, in which case Swedish courts will have to comply with the provisions of the directive.

Child care also comes within the social dimension - labour market policy - where a number of directives exist on equal treatment of men and women at work, safeguards for expectant mothers and rules on their working environment, and also a recommendation of child care.

Where municipalities and county councils are concerned, the EEA Agreement and possible EC/EU membership will not have any direct consequences in this field.



We have assumed that mobility from the EEA states to Sweden will be low, and so an EEA Agreement or EC/EU membership ought not to have any major direct consequences for municipalities and county councils where caring services for the elderly are concerned.

The EC has framed a number of directives relating to the disabled. One consequence for county councils will be the use, in this purchasing area, of the standards presupposed by the medico-technical directive. Otherwise we do not anticipate any consequences for municipalities and county councils.

### *Health and medical care*

The Maastricht Treaty expressly excludes harmonisation of the Member States' laws and administrative regulations in the field of health and medical care. The Treaty did, however, lay the foundations of action through the agreement by the Member States on a common health policy agenda. The Community has engaged in various activities, above all in research programmes concerning, for example, cancer, AIDS, cardiovascular diseases and biomedicine. The EA Agreement and possible EC/EU membership may have a number of indirect consequences for the county councils, above all in the field of information and experience interchange.

### *Alcohol and narcotic drugs*

The EU does not have a common alcohol policy. Sweden, then, can pursue an alcohol policy aimed at reducing consumption, both as a signatory of the EEA agreement and as a member of the EC/EU. On the other hand, alcohol is treated like any other commodity within the EU, i.e. must not be a subject of trade restraints.

If, in its negotiations on EC/EU membership, Sweden has to relinquish certain standpoints aimed at safeguarding Swedish alcohol policy, there may subsequently be an increase in alcohol consumption. This can indirectly entail a need for additional inputs by municipalities and county councils, above all within social services and medical care.

In the event of EC/EU membership, systematic screening of goods and persons at the internal frontier will no longer be possible. This can, of course, affect the possibilities of controlling drugs, among other things, but the intention is for border controls to be replaced with what are termed compensatory measures. In its membership negotiations with the EC/EU, Sweden has made it clear that an elimination of border

controls will be conditional on the existence of effective compensatory measures.

### *Education*

Education comes within the national competence of the Member States. The work of the EC is concerned with supporting the Member States so as to develop quality, diversity and renewal, and to expand the possibilities of greater mobility and international comparability of education programmes. This is being done by means of a large number of programmes and through directives on mutual recognition of certain credential study programmes.

Through the EEA Agreement, these directives will have consequences for the county councils as the mandators of colleges of nursing and care, nurses and midwives being among the categories affected by credential study programmes.

Under the EEA Agreement, Swedish nationals will be entitled to study wherever they like in the contracting countries. The agreement that EC students are to be given equal treatment does not apply to the EFTA states, e.g. as regards tuition fees. Otherwise the differences between the EEA Agreement and the implications of EC/EU membership are very small.

As an indirect consequence, municipalities and county councils will be required to keep themselves well informed about EC education programmes and support activities enhancing their benefits.

### *Culture and leisure*

The Maastricht treaty has the effect of including culture in the competence of the EC/EU, but harmonisation of legislation, on the other hand, is expressly excluded. The Council of Europe is to retain its position as main forum of general cultural co-operation in Europe.

The EEA Agreement and possible EC/EU membership will not have any direct consequences for municipalities and county councils. On the other hand opportunities will be opened up for taking part in various programmes within the cultural sector.

### *Competition*

Competition law occupies a central position within the EC/EU. Through the Treaty of Rome, the Member States have pledged themselves to



establish an order ensuring that competition in the common market will not be distorted.

We discuss the consequences for municipal enterprise and also the consequences for municipal aid to enterprise.

As regards municipal enterprise, the non-profit entrepreneurial activities of municipalities and county councils do not, in our view, threaten or affect international trade between the Member States, and so they should not be at variance with the EC rules on public support, even if they are subsidised.

On the subject of aid to enterprise, the EC rules concerning governmental support are found to be more liberal than those of Sweden's Local Government Act. Aid to enterprise is mainly a national government concern in Sweden, though municipalities and county councils can also engage in general enterprise promotion activities. We see little likelihood of any conflict needing to arise between the EC rules and the rules of the Local Government Act where existing municipal aid to enterprise is concerned.

### *Procurement*

Procurement is the area most directly and very tangibly affecting all public activity, municipal activity included. The Public Purchasing Act (LOU) will come into force at the same time as the EEA Agreement. The rules of the Act regulate purchasing procedure in much greater detail than previously and rule out the possibility of members of a municipality appealing against municipal purchasing decisions. The new Act transfers the right of appeal from members of the municipality to suppliers, while at the same time increasing state supervision of the municipalities.

### *Urban development and the environment*

EC commitment in the environmental sector has grown rapidly. For example, some 250 environmental rules have now been adopted, most of them in the form of directives.

As a direct consequence, the municipalities will be required to make wider use of environmental impact assessments and air quality measurements. The results of the air quality measurements are to be reported annually to the surveillance authority.

As time goes on, EC legislation is expected to include more and more aspects of the environment and physical planning etc., with a

view to achieving the environmental objectives and applying the principle of equivalent terms of competition.

Basically, though, physical planning is a national concern. In the construction sector, the market is assuming, through producer liability, more and more responsibility for products and quality.

### *Energy*

Energy, despite the Commission's pursuit of integration, is a field in which it has been difficult to reach agreement. In recent years, however, environmental issues have contributed towards greater involvement in the energy sector.

There are two directives which do not affect the municipalities in the sense of increasing their functions. A third directive is expected to have substantial consequences in connection with installations and purchasing. Sweden's energy sector is now undergoing a process of deregulation which is expected to have repercussions on municipal energy production and distribution. This makes it hard to predict the future situation for municipal energy issues in the long and short term, as regards both national development and an EEA, EC/EU perspective.

### *Transport and communications*

Under the EEA Agreement, Sweden has pledged itself to introduce EC regulations throughout the transport sector, which will mean deregulation and harmonisation measures affecting shipping, air transport and road and rail transport. At the same time one finds that the 1988 Riksdag resolution on a new traffic policy coincides to a great extent with the transport policy of the EC, and so integration of Sweden's own transport market with the market emerging within the EU over the next decade will not be much of a problem.

Municipal technical authorities and companies will be affected by the rules of the EEA Agreement on public procurement of goods and services. This is the field in which the consequences will be most palpable.

### *Standardisation*

In all procurement, under the EEA Agreement and the special legislation passed in Sweden as a consequence of that agreement, European standards are to be referred to. This will oblige municipalities and county councils to keep track of the areas and products for which



standards exist. The procurement process will also require a close knowledge of the requirements contained by the standards. Without such knowledge it will be hard to judge the implications and practical consequences of safety and quality requirements and the additional requirements which may have to be met in order for products to fit in with local routines.

### *Consumer affairs*

The Maastricht Treaty made consumer policy a specific part of the Community's competence. Community policy is intended to supplement legislation by the Member States.

A new Product Safety Act came into force in Sweden at the New Year 1993 and is currently being revised to bring it more closely into line with EC directives on general product safety.

Consumer advisory services to the general public are optional for municipalities and at present exist in some 230 of them.

### *Information processing and information technology*

As a consequence of the EEA Agreement and possible EC/EU membership, municipalities and county councils will need greater access to information and will become more dependent on information exchange, much of it by means of information technology. This will have to provide for the needs of municipalities and county councils themselves while at the same time forming a vital component of municipal services to enterprise and the general public. The need for communication and the need for technical equipment (dissemination within administrative bodies) will increase parallel to the growth of EC/EU integration.

### *Statistics*

The European Commission has adopted a statistical programme which is to apply to public statistics between 1993 and 1997. This also includes Sweden, under the EEA Agreement. The principal role of municipalities and county councils where the statistical programmes are concerned is to supply data for them and, above all on the subject of health and medical care statistics, to take part in the co-ordination of definitions etc.





## Economic consequences for municipalities and county councils

We have analysed the risks of increased operational costs, the possibilities of cost reduction through greater competition, the financing of local government activities and changes in development conditions for various regions.

We find it hard to make a net assessment of the significance of migration to municipalities and county councils. The EEA Agreement and future EC/EU membership can mean a certain amount of increased expenditure for municipalities and county councils in the short and medium term, but we do not believe that local government finance will be decisively affected by these expenditure increases.

Expenditure reductions, on the other hand, are expected to result from a growth of competition. Starting with two studies compiled in Sweden, we find that it is not possible to predict with any certainty how much municipalities and county councils can save when the new rules of procurement come into force at the New Year 1994.

The interview survey of Swedish and Danish buyers conducted on our behalf, however, has led us to conclude that an active procurement procedure can initially save something of the order of MSEK 10,000. We are satisfied that the savings as a whole to the local government sectors outweigh the cost of the additional work involved, for example, by the preparation of tendering documents and assessment of contractors' tenders.

The EEA Agreement does not include any demands for modifications of Sweden's taxation system. Nor does EC/EU membership entail any demands for adjustments to the taxation of earned income, capital taxation or property taxation. EMU participation entails certain "external" requirements of balance in public sector finances - the conditions of convergence, as they are called.

Given the straitened condition of government finance, the state, regardless of EU co-operation, has an interest in keeping the development of local government finance under continued observation. We therefore believe that the national financial situation, and above all the necessity of restoring the balance of the national budget, will make more difference to the funding of local government activities during the 1990s than direct and indirect demands of EC/EU co-operation. We also wish to underline that the division between national and local government of responsibility for reducing any public sector borrowing

requirement is a national issue and as such is ultimately decided by the Riksdag.

We state that neither the EEA Agreement nor EC/EU membership need entail reduced levying of taxation in Sweden. On the other hand, a possible harmonisation of certain taxes within the EU can eventually lead to a certain restructuring of the Swedish taxation system. This could mean more inert tax bases becoming more important and the role of more variable tax bases (indirect taxation above all) becoming more limited.

Local government taxation revenue derives to a great extent from taxation of labour. In our belief there is no need in the short term for a reappraisal of income taxation by municipalities and county councils. A change of tax bases may come to be considered, however, in the longer term.

The financial situation of municipalities and county councils will also greatly depend on the effects of Western European integration on the transformation of enterprise. Another essential factor is the change undergone by Swedish regional policy in the event of EC/EU membership.

In our report we refer to a special study, compiled as input documentation for the Swedish Long-Term Survey of 1992, concerning developments in regions with various economic structures and conceivable effects on those structures of Swedish EC/EU membership. We also describe the Swedish position on the Structural Funds in the current EC/EU membership negotiations.



## How will the transparency of local government activities be affected by the EC rules of secrecy?

There is no generally applied principle of publicity within the EC/EU, but on 6th December 1993 the Council passed a resolution to introduce a public domain principle. This is to apply, from 1994 onwards, to documents from the Committee and Council. Within the Commission it is now the practice for the Commission's internal deliberations, for example, to be restricted information, but the Commission can decide to release material at the drafting stage and may consult whomever it likes. The Commission's proposals for ordinances and directives always become public documents when transmitted to the Council.

Sweden's internal rules of publicity and secrecy will not be affected by the EEA Agreement or by possible EC/EU membership. In the event of special rules of secrecy being framed by the joint EEA committee on information interchange within the EEA, those rules will also come to apply in Sweden.

Since 1st July 1993 Sweden has had a new Competition Act, adjusted to EC rules in this field. Thus the Swedish Act has been amended in such a way that absolute secrecy applies to data obtained by the Competition authority concerning Swedish and foreign undertakings.

New rules on procurement come into force simultaneously with the EEA Agreement, making it the duty of municipalities and county councils in certain cases to publicise certain particulars of their purchasing.

The rules which may directly affect municipalities and county councils as regards opportunities for and restraints on transparency are contained in the EC draft directive on the processing of personal data. That draft document is of such a character that, if it comes into force as it now stands, the records of Swedish public authorities will have to be adapted to new legislation in this area.

EC law makes secrecy and publicity legislation a national concern. This being so, we do not believe that the transparency of municipal and county council activities will be affected by Community rules of secrecy, apart from the respects already described.

Secrecy and publicity within the EC/EU are decided by the EC institutions themselves. When documents are to be communicated, their recipient or recipients are indicated. The documents then come under the EC rules of secrecy.





## Municipal and regional influence on the legislative and other activities of the EC/EU

Some EC Member States, such as Germany and Belgium, have a more formalised system of co-operation and information for the participation of federal states and regions in the conduct of EC/EU affairs. In other countries, such as Denmark, the Netherlands and the United Kingdom, influence is to a great extent channelled through the associations of local authorities. In Ireland and France, formal local influence on EC/EU affairs is limited. In several countries the main concern is with the allocation of resources from the structural funds.

The Maastricht Treaty has the effect of giving local communities and regions more to say concerning EC/EU policies. The Treaty lays down that regional representatives can attend meetings of the Council of Ministers, which above all concerns Germany and Belgium. The Treaty provides for the setting up of Committee of the Regions comprising 189 representatives of regions and local communities. Representatives have been elected in virtually all countries. The levels which they represent vary from one country to another.

As regards the observation of EC/EU issued by Swedish municipalities and county councils, the Swedish Association of Local Authorities has for a couple of years now had a special international unit which among other things co-ordinates the Association's EC observations. The Federation of County Councils has a special EC programme with a political leadership. Both organisations are represented by expert advisors within the organisation of working committees and reference groups existing at the Government Chancery. The two of them, together with the Finnish Association Authorities, opened an office in Brussels in January 1993.

In connection with the presentation by the Swedish Government of its demands prior to negotiations on EC/EU membership, the Swedish Association of Local Authorities presented certain demands concerning, among other things, procedures for safeguarding local government interests. The questions raised concerned the right to information, participation in drafting work, official consultations and committee work, and the principles governing the election of members to the Committee of the Regions.

As regards participation by the Association of Local Authorities and the Federation of County Councils in drafting work, we realise that the success of European co-operation depends on swift national drafting of

the questions involved. As the decision-making process advances, the Government will need to secure national understanding and acceptance of its viewpoints. This will require continuous consultations with various interests in the course of the decision-making process.

The Swedish Association of Local Authorities and the Federation of County Councils ought therefore, in our opinion, within a standing drafting body at the Government Chancery, to be apprised of and given the opportunity of stating opinions on the way in which Swedish standpoints are to be framed in matters relating to the municipalities and county councils, both as organs of self-government and as executive bodies in various sectors. Appropriate procedures should be developed for these consultations.

The Committee of the Regions will, in our belief, represent an important step forward as regards the influence exerted by local communities and regions on the EC decision-making process. It will be dealing with large and extensive policy fields of concern to municipalities and county councils. Accordingly, we feel that Sweden, like other countries, must be represented on the Committee of the Regions by politically elected delegates from local and regional levels.



## The municipalities, the county councils and the EC/EU - a summary and assessment

Western European integration is only part of the wider process of internationalisation affecting municipalities and county councils in our country. When analysing the consequences of the EEA and the EC/EU, therefore, one should bear in mind the importance of internationalisation, in a general sense, to municipalities and county councils.

*What opportunities will EC/EU co-operation create for municipalities and county councils?*

We refer to two scenarios in an export report based on Danish experience of EC membership. We note, quite simply, that to a very great extent it is up to the municipalities and county councils themselves how they will use and administer the opportunities which Swedish membership of the EC/EU confers.

We believe that greater co-operation between the public sector and local enterprise and co-operation across municipal and county boundaries will also be very important for achieving economically viable regional development, through the availability of a large resource base.

EC/EU membership would make it possible for applications to be made to the EC Structural Funds. One optimum way of conducting the programming process is for local, regional and national levels to co-operate. The organisations and areas involved will then depend on the nature of the programming work. The geographical limits of regional co-operation are set by the participants themselves.

The EEA Agreement in itself presents municipalities and county councils with an opportunity of heavily reducing their expenditure on the purchase of goods, services and facilities. We believe that, by means of co-operation and active purchasing strategies, the municipalities and county councils can reduce their expenditure by MSEK 10,000.

Swedish membership of the EC/EU would also mean full opportunities for municipalities and county councils to take part in the EC's various development programmes and projects.

Swedish membership of the EC/EU would give municipalities and county councils the opportunity of being represented on the Committee of the Regions which has been set up through the Maastricht Treaty as



a forum for discussions between the various EC agencies and local and regional levels within the EC/EU.

*What constraint will the EC/EU imply on municipalities and county councils?*

We find that the clearest consequences of EC legislation for municipalities and county councils will be in the fields of purchasing, aid to enterprise and environmental affairs, though other examples could also be quoted. In our belief, however, the constraints imposed by EC law on municipal and county council self-determination are not of such a kind that they can be said to encroach on local self-government to any decisive extent. Similar regulations, albeit far less detailed, already exist in the Local Government Act or voluntary regulations as regards aid to enterprise and procurement. Thus the main effect of the EC regulations is to expand opportunities for scrutinising local government decisions, as a safeguard against the distortion of competition.

The restriction of the right of members of a municipality to appeal against municipal procurement decisions cannot, in our view, be described as a weakening of local democracy; we wish to point out that insight and control for elected representatives where the purchasing process is concerned satisfy the basic requirement of democratic approval.

We expect the general process of internationalisation and its impact on the national economic situation, especially the aim of restoring the balance of the national budget, to make far more difference to the funding of local government activities in the 1990s than the direct and indirect demands of EC/EU co-operation. Thus we do not feel that municipal and county council finance will be decisively affected by EC/EU membership.

Membership of the EC/EU will not necessitate a reduction of the total pressure of taxation. It is our belief that the possibilities of financing municipal activities out of income tax will not be affected by EC regulations, at all events in the short term.

*What role can municipalities and county councils play in building up the new Europe?*

In our report we have shown that the local and regional levels are attracting more and more attention within the EC/EU. This is most clearly manifested by the setting up of the Committee of the Regions.

In other respects too, the EC/EU seems to be heading for a basic approach which, in important respects, agrees with commonly accepted values in our own country. Examples:

- \* The subsidiarity principle's emphasis on decisions not being made at a higher level than necessary.
- \* Increased awareness that the general public must have insight into important drafting and decision-making processes.
- \* A market economy must be supplemented by strong social safeguards.

In view of the developments now in progress within the EC/EU, it should be natural for closer attention to focus on Sweden and the other Nordic countries as regards organising publicly funded activities in a free market economy. We are convinced that the Nordic form of self-government at local and regional levels is going to be an interesting object of study in the new Europe.









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