SYSTEM OF LOCAL GOVERNMENT IN SWEDEN

DOINA POPESCU*

Summary
Sweden is a unitary state with a history of strong local government involvement in public affairs. Local government has played an important role in the welfare state system with many responsibilities for the delivery of public services to citizens. Because of this important position in the welfare system, it has attracted local politicians of a high calibre. Swedish citizens have on the whole a positive view of Swedish local government and, partly because of the important policy and administrative responsibilities of the local authorities, there has been a high turnout in local elections, although this has been in some decline in recent years. The positive Swedish attitude to local government is also shared by the central government and parliament and Sweden signed and ratified the European Charter of Local Self-Government as early as 1989, just four years after its promulgation. The Instrument of Government (the Swedish Constitution), which came into force in January 1974, gives explicit recognition to the principle of local self-government and this has been further expanded in the Local Government Act (1991) which came into force in January 1992.

***Key words**: Local government, Swedish Constitution, Local Government Act, local authorities, European Charter of Local Self*

1. Introduction

The Swedish Constitution defines how the country shall be governed. It contains provisions on the relationship between decision-making and executive power and the basic rights and freedoms of citizens.Sweden has four fundamental laws which together make up the Constitution: the Instrument of Government, the Act of Succession, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression.The Instrument of Government contains the basic principles of Swedens form of government: how the Government is to work, the fundamental freedoms and rights of the Swedish people and how elections to the Riksdag (Swedish parliament) are to be implemented. The adoption in 1974 of the Instrument of Government currently in force meant a considerable reduction in the powers of the monarchy. The King remained Head of State but with no political power whatsoever, while the Speaker of the Riksdag (Swedish parliament) was given the task of appointing the new prime minister in connection with changes of government.It is laid down in the Instrument of Government that Sweden shall have a King or Queen as Head of State, but the Act of Succession enacted in 1810 regulates who is to inherit the throne. [1]Until 1979 succession to the throne of Sweden was through the male blood line. Then the Riksdag decided that a woman could also inherit the throne.The most recent Freedom of the Press Act was adopted in 1949 although Sweden established freedom of the press by law as early as 1766 and was first in the world to do so. Freedom of the press means the right to disseminate information in printed form but with accountability before the law. Another feature of the Freedom of the Press Act is citizens right to study public documents, the principle of public access to official documents.[2]The Fundamental Law on Freedom of Expression was adopted in 1991 and is Swedens youngest fundamental law.In addition to the fundamental laws, there is the Riksdag Act which holds a special status between fundamental law and ordinary law. To amend this Act only one Riksdag decision is required but it must be adopted by a qualified majority (at least three quarters of votes and the support of more than half the members). The Riksdag Act contains detailed provisions on the Riksdag and its workings.

* Lecturer, PhD, University of Pitesti (dopopescu@yahoo.com).
[1] Jan Andersson,. *A History of Sweden*, Weidefield and Nicolson, London,1955,pg.209.
[2] Sonkam Strömholm, *An Introduction to Swedish Law*, vol. 1, Kluwer, Netherlands,1981, pg.56.

As a member of the European Union, Sweden is also covered by the EU acquis communautaire, which means that laws jointly enacted in the EU usually take precedence over members national laws. On joining the EU Sweden was therefore obliged to make a few minor adjustments to the fundamental laws.

2. The institutions of Local Government

Sweden has three levels of government: national, regional and local. In addition, there is the European level which has acquired increasing importance following Sweden's entry into the EU. At parliamentary elections and municipal and county council elections held every four years, voters elect those who are to decide how Sweden is governed and administered. At the national level, the Swedish people are represented by the Riksdag (Swedish parliament) which has legislative powers. Proposals for new laws are presented by the Government which also implements decisions taken by the Riksdag. The Government is assisted in its work by the Government Offices, comprising a number of ministries, and some 400 central government agencies and public administrations.

At the regional level Sweden is divided into 21 counties. Political tasks at this level are undertaken on the one hand by the county councils, whose decision-makers are directly elected by the people of the county and, on the other, by the county administrative boards which are government bodies in the counties. Some public authorities also operate at regional and local levels, for example through county boards.

Local level

Sweden has 290 municipalities. Each municipality has an elected assembly, the municipal council, which takes decisions on municipal matters. The municipal council appoints the municipal executive board, which leads and coordinates municipality work.

European level

On entering the EU in 1995, Sweden acquired a further level of government: the European level. As a member of the Union, Sweden is subject to the EU acquis communautaire and takes part in the decision-making process when new common rules are drafted and approved.

Sweden covers a vast area of around 450,000 square kilometres with a population of just over 9,000,000 people. The Instrument of Government (the Swedish Constitution) and also the Swedish Local Government Act, states that Sweden has municipalities and county councils. The constitution does not therefore recognise any further form of subnational government such as a region. Every county council comprises one county, failing express provisions to the contrary. There are 290 municipalities (*kommuner*) and 20 county councils (*landstingen*) which sometimes call themselves "regions"2. The island municipality of Gotland, combines the functions of the county council and the municipality. There are also 21 County Administrative Boards (CABs) that are a branch of the central administration and are headed by a state-appointed governor, with responsibilities mainly for economic planning and regional development. Their board members are, since 2003, appointed by the central government. The CABs are entrusted with paramount responsibility for co-ordinating activities at county level. They command a strategic view of relations between bodies at local, county and central levels and can therefore act as a connecting link between central and local authorities.

CABs have administrative duties in for example the following areas:

- civil defence and emergency and rescue services; - social welfare and community care; - communications; - agriculture; - fishing; - gender equality; - culture; - planning and conservation of natural resources; - nature conservation and environmental protection.

CABs are also responsible for ensuring that the county's development proceeds in such a way as to facilitate the achievement of national goals while taking account of specific regional conditions and requirements. Important elements of this task are the promotion of economic and other kinds of development in the county as well as the provision of information for government use on prevailing conditions, problems and opportunities in the region. This task entails co-ordination of the state's

regional development measures on a number of fronts, for example, business, infrastructure, agriculture, forest and fishing. The task of actively promoting regional development calls for continual dialogue with other government agencies, the county's local authorities, county councils and other organisations.[3]

Two county councils - Västra Götland and Skåne – also call themselves "regions" and differ from other county councils in that they have taken over planning and development responsibilities from the CABs on a trial basis .Their creation was preceded by the amalgamation of previously existing counties. They have taken over the health care functions of the amalgamated county councils3. Another development in recent years has been the creation of Regional Co-operation Councils (RCCs – *regionala samverkansorgan*). The RCCs are indirectly elected, drawing their members from county and municipal councils. Like the Västra Götland and Skåne, they, too, may take over some of the development and planning responsibilities from the CABs. In the Swedish system, there is no hierarchical relationship between the different levels of local government, that is, no one level can exercise control over any other. Furthermore, the two regions, constitutionally speaking, are no different from the other levels of local government and are regarded simply as larger county councils even if they have taken over, on a trial basis, some of the responsibilities of the CABs.

Local authorities in Sweden, but especially the municipalities, have a wide range of functions. Some of these are exclusive to the municipalities (all primary and secondary education, most social welfare functions, town planning, water and sewage, environmental protection, refuse collection, parks and open spaces). Others are shared with the county councils, the CABs and/or the central government (e.g. regional/spatial planning, some culture and leisure activities). The most important but also the most financially burdensome of these tasks are education and social welfare but constitutional laws give the local authorities the right to raise taxes to carry out these duties. There is, however, a division of labour between the different levels. Municipalities have a wide range of responsibilities in several policy fields, while county councils deal, almost exclusively with health care.

3. Local Finances

The Swedish Constitution (Instrument of Government) guarantees that local authorities may levy taxes to enable them to perform their tasks (Chapter 1, Section 7 (2)). Local taxes are entirely in the form of a local income tax that is paid both to the municipalities and to the county councils. These taxes are the most important source of income for the local authorities and represent 67% of the total budget of the municipalities and 69% for the county councils. Besides revenues raised through local taxation, local authorities also receive grants from the central state. These are divided into general grants and ear-marked grants. For the county councils, general grants come to 7% and ear-marked grants 14% of their total income. The main part of the ear-marked grants to the county councils is a specific grant covering the county councils' expenditures for pharmaceutical subsidies to households, a grant that the county councils have wished to be maintained as a specific grant at least in the foreseeable future. The county councils also collect fees paid by patients, which came to 3% and the sale of other services, which amounted to 7%. A few smaller sources of income amounted to 2%. With regard to the municipalities, general grants are 9% and ear-marked grants 3.2% of total income. Rates and charges are 8.2%.The "Funding Principle" stipulates that, if the central government by law lays new tasks on the local authorities, the central government must provide the initial funds to carry out these tasks. There is no obligation on the part of Government to continue with the financial support in the successive years.

[3] Christian Diesen, Observations on the Swedish legal system, Stockholm's University,2010, pg.76.

4. The Equalisation System

Significant changes have been made in the equalisation system from January 1 2005. The purpose of the equalisation system, is however, the same, that is to create conditions of equal opportunity for local authorities across Sweden. The new equalisation system consists of five segments: revenue equalisation; equalisation for spending needs (cost equalisation); a structural grant; a transitional grant; and a per capita "regulation" grant or fee.The revenue equalisation has been changed from a horizontal equalisation to a mainly vertical equalisation, although still with a small horizontal component. Municipalities with a per capita tax base below 115% and county councils with a per capita tax base below 110% of the national average receive a revenue equalisation grant. Those with a per capita tax base above these levels have to pay a revenue equalisation fee to the central government. Since this fee only covers a small proportion of the revenue equalisation grant, the central government has to finance the main part of it, and is using the former general grant and to some extent previously ear-marked grants for this purpose.

The equalisation for spending needs or cost equalisation is maintained as a horizontal equalisation system, although some changes have been made. The cost equalisation is intended to equalise for costs relating to structural needs and cost differences due, for example, to differences in the age distribution of the population or to the fact that additional costs are incurred due to long distances in the local authorities concerned.Some of the components in the cost equalisation system have been removed from the horizontal equalisation scheme. Instead, a new structural grant has been introduced, financed by the central government. This grant covers, for example, costs for the promotion of business and employment and costs related to low population density.[4]

5. Swedish Local Government and the European Charter of Local Self-Government

It is clear that the Swedish tradition of local government is broadly in line with the spirit and provisions of the Charter. In Sweden, there is a long tradition that local self-government enhances democracy, effectiveness and efficiency in Swedish society. It is not surprising, therefore, that the Swedish parliament, with the full backing of the county councils and municipalities, should have ratified the Charter in 1989, just four years after its adoption. The Charter applies to the Swedish municipalities (*Kommuner*) as well as to the Swedish county councils (*Landsting*). Since the Instrument of Government (the Swedish Constitution), which came into force in January 1974, gives explicit recognition to the principle of local self-government the government stated in its Governmental Bill on Approval of the European Charter of Local Self-government (1988/89) that existing Swedish legislation did not require any further amendments. The Local Government Act (1991), entailed the further reinforcement local autonomy in line with the Charter. The previous Swedish Local Government Act (from 1977 and even previous ones) was also founded on the principle that municipalities and county councils should have the largest possible freedom to govern and organise themselves.

More specifically, several key articles of the Charter correspond with Swedish legislation. Article 2 states that the principle of local self-government should be recognised in the constitution. Chapter 1, section 1 of the Swedish Instrument of Government grants such recognition. This was further reinforced by the Local Government Act (1991). Article 3 of the Charter states that local authorities have the right, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. Both the Instrument of Government and the legislation on local government are based on these principles. Article 4, para. 6, requires that local authorities be consulted on all matters that directly concern them and the bill proposing approval of the Charter stated that the Swedish system was consistent with this. Article 6, recommends that local authorities should be able to determine their own internal

[4] Christian Diesen, Observations on the Swedish legal system, Stockholm's University,2010, pg.112.

administrative structures, was complied with when the Local Government Act (1991) abolished the requirement that there be specific committees.

Article 9 deals with local authorities' financial resources. It states (para.1) that local authorities shall be entitled, within national economic policy, to adequate financial resources, of which they may dispose freely within the framework of their powers. It also stipulates (para. 2) that their financial resources shall be commensurate with the responsibilities provided for by the constitution and the law. With regard to local government sources of revenue, these should be derived from local taxes and charges, which, within the limits of statute, they may determine themselves (para. 3) and should be sufficiently diversified and buoyant (para. 4). There should be a system of equalisation to protect financially weaker local authorities (para. 5). With regard to grants from central government, it is recommended that these should, as far as possible, not be earmarked and should not remove from local authorities the freedom of policy discretion (para. 7).

To some extent, the provision in the Instrument of Government that states that local authorities have the right to levy taxes corresponds to this principle. This was further strengthened in 1993, when the Swedish Parliament, in connection with the introduction of general government grants approved the Funding Principle, which states that the government must explain how a reform is to be financed if it involves new tasks for local authorities. If local authorities have no alternative but to finance the reform by higher taxes, the state must give them financial compensation.

In the light of these considerations, we acknowledge the efforts made by the Swedish national and local authorities to apply the principles underlying the Charter. Nevertheless, the local authorities themselves have called to the attention of the Congress a number of issues where they feel the principles are not being fully complied with. One danger is that the central authorities in Sweden, precisely because they have a strong tradition of local self-government, may feel that the Charter is being fully complied with in the present Constitution and legislation.

6. The Changing Context Of Swedish Local Government

The thirty-year economic boom, following the Second World War, together with moderate tax increases financed the Swedish model of the welfare state. When economic growth slowed in the 1970s, further expansion of the welfare state had to be financed by large tax increases. During the second half of the 1980s, favourable economic growth financed a further expansion of the welfare state. This came to an end with the crisis in the early 1990s, which affected Sweden particularly badly and resulted in a very large budget deficit. Two major structural reforms were introduced in the 1990s. The tax reform of 1991 reduced the high levels of taxation on income and capital. The defined benefit pension system was transformed to a sustainable defined contribution system in 1995. A programme of fiscal consolidation was introduced in 1994. This programme ran over several years and included both tax increases and cuts in welfare expenditure. The rather favourable economic development since the late 1990s, with low inflation and interest rates, has made it possible to revise most of the former cuts and even to introduce new reforms and tax cuts in the last few years.

The local government plays a very important role in the delivery of welfare services as well as in the taxation system, since the main form of direct tax paid by most Swedes was the local income tax. Neither the position of the local authorities nor the dominance of the local income tax was questioned during the period of reforms in the 1990s. What was questioned, however, already in the 1980s, was the high level of central regulation of the local authorities' activities. The free commune experiment was an attempt to resolve this problem in the direction of greater local freedom and this principle was incorporated into the Local Government Act (1991).

In last years, however, again economic constraints have been re-introduced partly as a result of the changing international financial scene, in which central governments are obliged to apply a strict fiscal orthodoxy (even countries outside the Eurozone, such as Sweden and the United Kingdom follow this approach). This means keeping a tight control over public finances and spending. To some extent, at least, it is the local authorities who are paying the price both financially

and in terms of the lessening of their autonomy over policy areas and also local administration. Central governments and parliaments are interfering more in local affairs through both increased regulation and through fiscal control.

6.1 The Committee on Public Sector Responsibilities

The Swedish Government set up the Committee on Public Sector Responsibilies to examine the division of responsibilities between different levels of government in order to respond to some of the challenges outlined above. The Committee produced its report entitled "Innovation capacity for sustainable welfare"Stockholm: Official Government Reports – SOU, 2012:123). The Committee recommended that the Government's ambition should be to provide an equivalent high level of public services through a system of public administration that has a high level of democratic legitimacy and closeness to citizens. This should be done by following three strategies:

a) a strategy for clarifying the division of responsibilities between different levels of the administrative system (where multi-level governance occurs) in cases where it is impossible or inappropriate to concentrate responsibility at a single level, and for enhancing innovation capacity;

b) a strategy for enhanced innovation capacity at local government level, building on a clear division of responsibilities between local and central government levels;

c) a strategy for enhanced innovation capacity at central government level, comprising intersectoral development of central government services and national level governance.

The Committee proposed that the following specific matters should be given special priority in the continued enquiry:

a) the overall task of local government, including more far-reaching co-operation at local government level;

b) the design of the regional system of public administration;

c) the framework for governance and supervision by the Government and Riksdag (Parliament);

d) country-wide equivalence in the provision of welfare services and the legal regulation of individual rights;

e) the consequences of alternative operational arrangements in the public sector for the welfare services concerned;

f) the impact of the EU on Swedish public administration.

The initial report of the Committee indeed recognises that trends within Sweden, occasioned by phenomena such as globalisation, europeanisation, new economic forms of growth and innovation and changing citizen's needs and expectations have changed the context in which regional and local democracy is exercised. They highlight the increasing trend towards greater centralisation and regulation: "Most the 17 public sector services transferred from central to local government level [in the period 1970-2013] were very small … and 28 services were transferred from municipalities and county councils to the central government domain".

Furthermore, "public sector services underwent *substantial change in the 1990s* [emphasis in original] … Most of the government bills that in 2003-2013 clarified the responsibilities of different parts of the public administration system also curtailed the freedom of municipalities and country councils, while only a quarter gave them more freedom." In addition, central government controls local governments in the following ways:

a) by the design and size of *central government grants* – in the 1990s, there was a trend towards eliminating especially ear-marked central government grants in favour of general government grants – in recent years, however, new specially ear-marked grants have been introduced;

b) by issuing provisions *requiring local governments to balance their budgets* and by drawing up rules for taxes and fees. Central government has also for periods frozen local government tax rates

and it determines the services for which fees may be charged. It has also decided on *maximum* charges for child-care services and care for the elderly;

c) the controversial *application of the "funding principle*";

d) by using the *financial co-ordination mechanism* whereby central and local government share a common budget;

e) through *national action plans* which often contain ear-marked grants for the implementation of the plan.

f) by means of *time-limited projects* sometimes combined with the above-mentioned co-financing arrangements.

6.2 Commission on the Constitution

The Swedish Government has also appointed a Commission on the Constitution, whose terms of reference are to conduct a comprehensive review of the Instrument of Government. The work of the Commission was primarily concentrate on and orientated towards improving and enhancing the Swedish government with a view to increasing the confidence of citizens in democratic institutions and increase their participation in elections. The Commission also, among other things, look into the issues related to the review of legislation and consider whether there is a need for a constitutional court. The Commission may also deal with issues relating to local government democracy.

7. Some Problems In The Implementation Of The Charter

7.1 Central regulation of local government

Sweden presents something of a paradox with regard to the practice of local self-government. On the one hand, there is a relatively strong constitutional and legislative recognition of the principle. On the other hand, Sweden is a unitary state with a long tradition of egalitarianism and generous social welfare provisions, largely delivered by the local authorities but in a standardised way and regulated by the national parliament. Special laws passed by the parliament specify and regulate tasks to be carried out by the local authorities. The Local Government Act (1991) does give a power of general competence to the local authorities while the special laws give special competences for municipalities and/or county councils. The Local Government Act makes reference to special laws and states that special provisions exist concerning the power and obligations of municipalities and county councils in certain fields. The question which arises here is whether these specific references undermine the autonomy of the local authorities in practice even though, in a legal sense, the Local Government Law is not in any way subordinate to the special laws. The financially important areas of activity are all regulated by special provisions, which can be quite detailed.

The Instrument of Government is, in fact, ambiguous with regard to local autonomy. On the one hand, as we have noted, it recognises the right to local self-government. On the other hand, it does not contain any provisions specifying the tasks and functions of local authorities. In Chapter 8, para. 5, it states that the principles governing the organisation and activities of local authorities, local taxation and local authorities' powers shall be governed by law, that is by Parliament. It is this part of the Instrument of Government that allows the Parliament to intervene in local authorities' affairs in sometimes a quite detailed way. This may contravene the principle of self-government also contained in the Constitution. It is true that Article 3, para. 1, of the Charter, to some extent, circumscribes the exercise of local self-government by adding the phrase "within the law". This phrase, however, should not be interpreted as meaning that the central authorities may undermine local autonomy through detailed legislation. The Swedish authorities, in their written comments on the first draft report, pointed out that the Instrument of Government is meant to be flexible. In their opinion, it allows the distribution of tasks between the Swedish state and the local government to shift over time. The regulation in Chapter 8, para. 5 is normative and protects local government by regulating who has the right to decide about the organisation, etc. It was clear to the Council of Europe

delegation that there is, at the very least, an ambiguity here in the Constitution, which may be interpreted in quite different ways.

During the period up to the 1970s, when the Swedish welfare state was being consolidated, local authorities, while occupying an important position in the political and administrative system, were seen as agents of the central government for the delivery of a variety of services. These were closely regulated by the parliament. There was a wide consensus in Sweden at the time as to the desirability of this system. In the 1980s, however, there was a feeling among many local authorities and the government that there should be some loosening of the controls. This led to the "free commune" experiment during that period, which began in 1985 and lasted until the Local Government Act (1991) came into force in 1992. The experiment involved selected local authorities applying to the parliament to be relieved of central controls in specified policy sectors. The selected authorities could also organise their committee structure as they wished, within broad limits. The 1991 Act incorporated the right to this self-organisation and thus continued one of the main features of the experiment. There is now a tendency to issue framework legislation, which enunciates the principles, rather than detailed specific regulations. Nevertheless, some commentators have claimed that the government and parliament are now intervening more in local government affairs. It has been claimed that in recent years there has been a greater tendency for central government to intervene in local affairs and this has provoked reactions on the part of the local authorities. We were informed by some of our interlocutors that this is partly because some issues, disability rights, for example, have become more highly politicised thus leading to great central involvement. The authorities, on the other hand, denied that such politicisation was occurring but rather that it was simply in the national interest that these services should be equal throughout the entire country and not vary between the municipalities. Another reason is that the costs of social welfare and health care have increased rapidly and local authority budgets have sometimes been unable to cope with the increases. This is especially true of the county councils who are responsible for health care and costs have risen partly because of an increase in the elderly population and partly because of new technological developments within medicine. One of the responses of central government to these changes has been to provide more grants thus increasing ear-marked grants for specific purposes.

7.2 The shift from general grants to ear-marked grants and the sale of municipal housing

According to Article 9, para. 7 of the European Charter of Local Self-Government, grants to local authorities should, as far as possible, not be ear-marked for the financing of specific projects. For a period during the 1990s, the Swedish government moved to increasing the amount of general grants to ear-marked grants. More recently, however, there has been a tendency to return to the ear-marked system.The issue arose with regard to the sale of municipal housing when the government sought to restrict this by reducing the level of general grants in a Draft Act Temporarily Reducing General Government Grants Following the Sale of Shares in or Dividends from Municipal Housing Companies. Although the Council on Legislation considered that this was an infringement of the constitutional principle of local self-government as "the management of housing supply and implementation of housing policy are primarily a matter for the local authorities", the Parliament did pass the Act which entered into force on 19 June 1999. The Act has now been repealed. The Municipal Housing Companies Act (2002), stipulates (Chapter 2, Sections 3 and 5) that local authorities, subject to some exceptions, must seek permission from the County Administrative Board before they sell, or lose their controlling influence over, a municipal housing company. There is a party political issue involved here as the ruling Social Democrat government favours this while the opposition parties (Moderate Party, Liberal Party, Christian Democrats and Centre Party) have reservations about From the point of view of the Charter, the reduction of the general grant by Government as a reaction to the sale of municipal housing by local authorities appears to be in conflict both with the stipulation that government grants should be general rather than ear-marked

and also that central government should not interfere in a task that has been assigned to the local authorities. Again, it would seem here that the grant system is being used for ideological purposes with regard to the sale of municipal housing although the central authorities claim that this was not the case. Although the authorities accepted the ruling of the Council on Legislation that there was an infringement of the principle of self-government, they argued that there is a reason for this, being that both the state and the municipalities share responsibility for municipal housing, which received state support and thus it is not only an issue concerning municipalities but how this public capital may be used.

7.3 The impact of "rights" legislation on local government

During the 1980s, there were several laws passed which gave rights to specific groups. The best-known is the Social Services Act (1980 and 2001). The Support and Service for Certain Categories of Disabled Persons Act came into force in 1993. Although few would dispute the underlying rationale behind these laws, the legislation itself was rather imprecise and they have imposed financial constraints on the local authorities, who are responsible for implementing them. Disputes between individual citizens who make claims on the basis of the legislative and the local authorities who must pay for them are adjudicated by administrative courts. In practice, the courts have determined the volume and quality of various social services, e.g. home-help services, care of substance abusers, accommodation in service apartments for the elderly, among others. The question is whether these measures, decided by the national parliament, but administered by the local authorities, are in conformity with Article 9 of the Charter, as the Swedish Funding Principle, which state that local authorities should receive adequate financial resources to carry out tasks which are required of them by the central authorities. During our visit in October, we raised this issue with the central authorities, who were convinced that the local authorities did have adequate resources, while the local authorities' associations were convinced of the opposite. One problem here is that the final arbiter in the matter is the Parliament, which is also one of the parties of the dispute. The administrative courts are merely applying the parliamentary legislation although their administrative decisions can be deemed an infringement of the autonomy of the local authorities to allocate their resources in accordance with local needs. In some cases, the courts' decisions on finances have meant cutting back on other policy priorities. Furthermore, in the case of delays in compliance with the courts' decisions, the local authorities may receive penalty payments, which is another drain on their financial resources. The Committee on Public Sector Responsibilities also highlighted this as a problem for local autonomy. The legislation as promulgated suffers from a lack of creating a fair balance between the rights of citizens and the duty of the local authorities to provide services according to priorities in the interest of the community at large.

7.4 Tax capping

Although the Instrument of Government and the Local Government Act grant local authorities fiscal autonomy, there are limitations on this autonomy. The local authorities can fix local tax rates but all other rules governing local government taxation, e.g. the tax base, are decided by Parliament. There is thus some ambiguity with regard to the actual practice of fiscal autonomy. This was evident when Parliament imposed a tax freeze during the years . The Standing Committee on the Constitution and the Council on Legislation both made statements on this. The Committee stated that the Constitution provided little scope for tax capping. However, the Committee also gave its approval for temporary restrictions on the local authorities' fiscal autonomy. The Council stated that certain restrictions may be imposed on fiscal autonomy. Although the freezes are not in operation now, they may be re-imposed at any point in the future. The Committee on Public Sector Responsibilities also highlighted this as a problem for local autonomy.

Conclusions

Sweden is a unitary state but with a strong system of local autonomy, which applies many of the principles of local self-government contained in the European Charter of Local Self-Government. There is constitutional recognition of the principle of local self-government as well as constitutional recognition of the right for local authorities to levy taxes to perform their tasks. The Funding principle states that central government will provide adequate funding resources if additional tasks are requested of them. In practice, Swedish local authorities have played a very important role in the welfare state system and have a high standing in the eyes of the population.

There are, nevertheless, problems with the implementation of the above-mentioned principles. The Instrument of Government itself is ambiguous with regard to the principle and this allows different interpretations. The two bodies which examine the constitutionality of legislation, the Council on Legislation and the Standing Committee on the Constitution, themselves seem to disagree on the interpretation of the principle as found in the Instrument of Government. There are also serious disagreements between the central and local authorities. To some extent, these disagreements are based on party political considerations but we were also struck by the fact that, among the local authorities, councillors of all parties were united in their defence of the principle of local self-government against what they regarded as encroachments by the central authorities. This unanimity was manifest between county councils and municipalities, and among county councils and municipalities right across Sweden whatever their size, geographical location, party political leadership or model (e.g. the trial project of Skåne). We felt that, at the level of the national government, there was a greater emphasis on the principles of equality achieved through uniformity than on recognising the importance of local autonomy and that this was at least in part a party political difference. Although we recognise that these two principles are not easy to reconcile in practice, we would recall to the Swedish authorities that they have signed and ratified the European Charter of Local Self-government and are obliged to take into account its provisions.

Although the principle of local self-government is given constitutional and legal recognition in Sweden, we feel that its constitutional position could be strengthened by obliging Swedish law-makers always to refer to the European Charter of Local Self-government when drawing up all legislation. At present, Swedish law-makers simply assume that, because the principle is mentioned in the Instrument of Government (the Swedish Constitution) and the Local Government Act, then it will be taken into account. In this regard, there should be a system of redress, referred to in the Constitution, to which local authorities could refer breaches of the principle. The European Charter of Local Self-government could then be the bench-mark against which such breaches would be judged. This might mean a Constitutional Court, although we understand that this option is not widely favoured in Sweden even among the local authorities themselves. Another option would be to strengthen the position of the local authorities vis-à-vis the Parliament which is currently the final court in interpreting the scope of local self-government in particular with regard to funding. This might mean creating a parliamentary committee on local self-government which could hear both sides of the case – the government and the local authorities.

References

- 1.Roland Séroussi**,** Introduction au droit comparé , Dunod, Paris, 2000.
- 2. Dinedl Buttery *"Sweden." Encyclopedia of Play in Today's Society,* Stockholm's University *2009*. Retrieved from SAGE Publications: http://www.sage-ereference.com/view/play/n402.xml.
- 3.Sonkam Strömholm, *An Introduction to Swedish Law*, vol. 1, Kluwer, Netherlands,1981.
- 4.Jan Andersson,. *A History of Sweden*, Weidefield and Nicolson, London,1955.
- 5.Christian Diesen, Observations on the Swedish legal system, Stockholm's University, 2010.
- 6. https://e-justice.europa.eu/content_judicial_systems_in_member_states-16-se-ro.do.
- 7. http://ec.europa.eu/social/main.jsp?langId=en&catId=815.