

# The EU in Local Politics

A STUDY OF AGENDAS FROM MUNICIPALITIES, COUNTY  
COUNCILS AND REGIONS



Swedish Association  
of Local Authorities  
and Regions

INFLUENCE REPRESENTATION PARTICIPATION DEMOCRACY  
COOPERATION



EU



National



strategy

lobbying

Region

Region



Municipality

Municipality

Municipality

Municipality

# The EU in Local Politics

## A study of agendas from municipalities, county councils and regions

This report examines the impact of the European Union on Swedish municipalities, county councils and regions. It provides a quantitative estimate of the number of political issues dealt with on local and regional level, which are affected by the EU. It also describes more closely the main areas influenced by the EU. This has been done through an analysis of meeting agendas of municipal councils, county councils and regional councils and through an assessment of whether the items on the agendas concern subjects that are affected by the EU or not.

This study was conducted prior to the regional reform in Sweden. As of 1 January 2019, all county councils are regions. This means that additional responsibilities have been afforded to the former county councils, primarily regional development. It is important to take note of this reform when reading this study. However, the study is not without merit, as the overall responsibilities at the local and regional level has not changed in any considerable way.

### Levels of local democracy in Sweden

There is no hierarchical relation between municipalities, county councils and regions, since all are self-governing local authorities with responsibility for different activities. The only exception is Gotland, an island in the Baltic Sea, where the municipality also has the responsibilities and tasks normally associated with those of a county council. As of 1 January 2019, all county councils are regions, which means all regions now are responsible for the provision of health care as well as regional development and public transport. Again, this was not the case when the study was conducted.

Municipalities are responsible for a large share of the public services, for example, primary and secondary education, childcare and eldercare, as well as essential community services such as water supply, waste disposal and rescue services. The main responsibilities of the regions are, as mentioned, health care, regional development and public transport.

The Swedish Association of Local Authorities and Regions (SALAR) represents all of Sweden's municipalities and regions. It is an employers' organization that advocates the interests of its members by, for instance, seeking to strengthen local self-government and to further the development of regional and local democracy.

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DEMOCRACY

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# The European Union in Local Politics

## Summary

This study examines the impact of the EU on Swedish municipalities, county councils and regions. Its purpose is to provide a quantitative estimate of the EU's impact, as well to give a more detailed description of the nature of that impact. This is done through an analysis of meeting agendas from municipal councils, county councils and regional councils. The study is based on a selection of agendas from 44 municipalities, two county councils and four regions. One agenda from the period between May 2016 and April 2017 was chosen for every municipality, county council and region, evenly spread out throughout the year.

The EU exerts impact on various issues in different ways. The study therefore distinguishes between the following two different types of impact. Legislative impact is defined as the EU exerting control through directives that are binding (mandatory) on municipalities, county councils and regions. Political impact, on the other hand, is defined as impact based on EU's non-binding instruments, such as action plans and recommendations from the Council and the Commission.

The study shows different results for municipalities, on one hand, and county councils and regions, on the other. Just over 20 per cent of the agenda items of municipal councils demonstrate the impact of EU legislation. An additional 25 per cent of the items on municipal agendas relate to issues in which EU has as its *objective* to impact an outcome but chooses to use non-binding measures. In these cases, a more detailed study is required in order to determine the extent to which these have been effective. In total, on average, the EU impacts just below half of the agenda points from municipal councils.

The results for county councils and regions look somewhat different. One explanation is that municipalities and county councils have different tasks and are therefore affected to different extents. Compared with its impact on municipalities, the EU has less legislative impact on county and regional councils. Just over 10 per cent of the items are affected by binding law. On the other hand, the political impact is somewhat greater. Approximately 45 per cent of the agenda items relate to areas where the EU has adopted action plans and recommendations, primarily in health care. In total, the EU impacts somewhat more than half of the agenda items from the county and regional councils.

This study contains a description of the impact of the EU on local and regional politics, in different subject areas. The study also provides a view of EU's goals and methods, as well as practical examples of agenda items that are influenced by the EU.

The description of legislative impact highlights three areas. These are EU's competition rules, public procurement and State aid. These are of great importance for how municipalities, county councils and regions conduct their operations and act in relation to private sector entities. About 15 per cent of the municipalities' agendas is influenced by legislation. EU environmental rules have both legislative and political impact on the work of the municipal sector. A total of 10 per cent of the agenda points relate to environmental issues, evenly distributed between legislative and political impact. Finally, EU legislation regarding equal treatment prohibits all kinds of discrimination at local and regional level.

The description of political impact relates primarily to the following four areas: EU budget rules, healthcare, climate, environment and integration of refugees and other third-country citizens. In these areas, the EU has limited possibilities to influence the Member State, other than promoting voluntary coordination of the Member State policies by facilitating the sharing of ideas and good examples on the European level. Of the county council and regional council agenda items, 30 per cent deal with healthcare issues, an area in which EU programmes have composed rather detailed objectives. Another avenue of EU impact is by formulating long-term strategies for growth and employment, which set overarching goals for Union efforts. The Europe 2020 strategy, for example, contains objectives for employment, education, climate and poverty alleviation. In recent years, EU has also adopted stricter rules regarding the budget balance and debt ratios. Although these rules apply primarily to the Eurozone, they also impact the Swedish state, as well as the municipal sector, to a less binding extent.

## **Introduction**

What does the EU have to do with a decision to build a preschool in the Municipality of Laholm? Actually, the EU reaches all the way down to everyday aspects of local government. For example, the EU has adopted laws that determine the extent to which the environment must be taken into consideration in city planning and building projects. When a preschool is to be built, this project also becomes the subject of a procurement procedure that in large part originates from the EU. Naturally, it is not the EU that decides whether a preschool should be built or not, but just as a municipality must follow Swedish law when deciding to implement such a project, nowadays, it must also take into account European rules and regulations.

Thus, the EU participates in setting the framework for Swedish local politics. This, in turn, has led the municipal sector to increasing its efforts to impact the EU. Most municipalities, county councils and regions, for example, have representatives on site in Brussels. Some Swedish municipal, county council and regional representatives are also members of European Committee of the Regions (CoR), an EU advisory body that represents the local and regional levels of the Member States. There is no doubt that the EU impacts Swedish municipalities, county councils and regions. But what is the extent and nature of that impact? This report is an attempt to answer these questions.

The way that the EU influences the local and regional levels in Sweden is, in many respects, unique, as the principle of local self-governance in Sweden is very strong in comparison to the corresponding situation in other countries. One fundamental reason for this independence is the right of local and regional authorities to impose taxation in order to finance their operations. This gives Swedish municipalities, county councils and regions a more independent status compared to their counterparts in, for example, France, where they are significantly more dependent on national policies. It is our hope that this report will provide an understanding of the Swedish conditions.

## **Purpose and objective**

This report has both quantitative and qualitative objectives. First, it strives to arrive at a figure that will provide an estimate of how much the EU influences municipalities, county councils and regions. Secondly, it intends to provide a more detailed description of the nature of this impact. In this study, the impact of the EU is measured by an analysis of meeting agendas from municipal, county and regional councils in order to determine what percentage of these matters are affected by the EU. This report is based on a previous report that the Swedish Association of Regions and Local Authorities (SALAR) published in 2010, which reached the conclusion that about 60 per cent of the items dealt with on an average municipal agenda are affected by the EU, compared to 50 per cent of an average agenda in a county council or regional council. The purpose of this study is to update the previous report and answer the question of what the current nature of EU impact is.



We hope that this study can serve as a resource for those who wish to learn more about how the EU impacts local and regional level in Sweden. That said, however, it is beyond the scope of this study to estimate whether room for manoeuvring has increased or decreased on local and regional levels since Sweden entered the European Union in 1995.

### **What does impact mean?**

The answer to the question of what percentage of the items on a council's agenda are impacted by the EU depends, to a great extent, on how the concept of impact is defined. Consequently, the following paragraph will explain how that concept has been used in this study.

The verb "to impact" means to have an effect on something or someone. Most often, impact is associated with a deviation from normal behaviour. In other words, a change. A clear form of impact is seen where one person has the power to make another person act in a manner that the latter person would not have independently chosen. One way to exert this kind of impact would be to enact binding laws. A more subtle form of impact is by using good arguments to convince people to act in a certain manner. This is much more difficult to measure but can have at least as much actual effect as a compulsory form of impact. Based on this discussion, there is good reason to conclude that impact is easy to describe from a theoretical point of view, but much more difficult to identify and measure in practice.

The purpose of this study is to create an overview of the intersection between the EU and the local and regional levels in Sweden. Consequently, we have chosen a broad definition of the concept of impact in order to include a variety of forms of impact in our analysis. We have divided impact into two categories – legislative impact and political impact<sup>1</sup>. Legislative impact is defined as the EU having the power to make decisions that are binding on the Member States. Political impact is more difficult to define, as it is intended to include "softer" forms of impact. One can conceive of a full range of different ways that the EU intentionally or unintentionally influences our opinions as to which political issues are important and how they should be handled. The agenda method, however, is not well-suited for the type of deeper analysis required in order to assess these forms of indirect impact.

The analysis in this study thus limits itself to a determination that on certain issues, the EU has an objective of influencing the policies of the Member States in certain directions. We leave it to future research to determine the extent to which these attempts by the EU have had an effect on municipalities and county councils. Political impact is thus defined as the non-binding decisions and action plans of the EU, more specifically, the opinions and recommendations of the Council and the Commission, as well as those areas included in the European Semester.

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<sup>1</sup> This distinction is inspired by the Swedish Agency for Public Management Report No. 2005:12 – The Impact of the EU on Municipalities and County Councils.

This category also includes the impact that results from the EU providing resources for certain types of projects, which creates an incentive to move in a given direction.

The difference between legislative and political impact is not always easy to see, but their consequences differ in one important respect. When EU legislation is legally binding, municipal decisions that are in conflict with the legislation can be appealed to the general and administrative courts. In recent years, it has also become easier for individual members of the public and interest groups to appeal decisions. This is especially apparent in cases dealing with environmental law, but also with regard to competition law, where individuals have been given the opportunity to use legal action as a way of protesting against decisions.

Non-binding decisions do not have the same consequences. Local politicians can choose not to comply with recommendations, if they have not been adopted by the Swedish State. The EU usually adopts programmes and action plans that establish goals for national and local policies, and publishes reports that show the way in which Member States deviate from recommendations. This type of benchmarking can exert some pressure, but not as much as binding legislation does.

In summary, we can establish that although the EU has no power to decide what should be done in municipalities and county councils, sometimes EU legislation can limit the freedom of action of these entities. At the same time, the EU can offer various resources to municipalities and county councils when they pursue the goals recommended by the EU.

## **Previous studies**

In order to be able to relate this analysis to the results of earlier studies, the following brief overview of previous research will be presented.

This study is an update of a previous study that SALAR published in 2010. The previous study used the same method and reached the result that about 60 per cent of the agenda items from municipal councils and 50 per cent of the agenda items from county and regional councils were impacted by EU's binding legislation and non-binding programmes.

Comparable studies have been carried out in other Nordic countries. A report by the Norwegian Institute for Urban and Regional Research in 2008<sup>2</sup> used the agenda method to study how the Norwegian county councils were influenced by the EEA Agreement. After having analysed agendas from 20 county councils, they found that 73 per cent of the issues on an average agenda were impacted by the EEA.

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<sup>2</sup> NIBR Report 2008. Lojal iverksettning eller målrettet vevirkning? – Om kommunesektoren og EØS-avtalen.

In 2012, the Norwegian Ministry of Foreign Affairs published a government report on Norway's agreement with the EU, which contained an evaluation of Norway's "Europeanization" and the significance of EU in important political areas.<sup>3</sup> The report reached the conclusion that there were few areas in Norwegian society that were not directly or indirectly affected. The report was highly detailed but did not include any quantitative assessment of the impact of the EU.

The agenda method was used in two reports that were published in 2014 by the Danish Association of Local Authorities (KL) and the Association of Finnish Local and Regional Authorities, respectively. The Danish study<sup>4</sup> found that 427 of 907 agenda items (47 per cent) studied were impacted by the EU. Of the 907 items, 29 per cent displayed legislative impact, 14.5 per cent showed political impact and 3.5 showed both legislative and political impact. Amongst the items showing legislative impact, environmental legislation predominated (65 per cent of the items showing legislative impact dealt with environmental issues), whilst objectives relating to the area of climate and energy accounted for the largest share (31 per cent) of the items showing political impact. This study was based on 40 agendas from 10 Danish municipalities.

The Finnish report<sup>5</sup> analysed 10 agendas from 10 Finnish municipalities for meetings held in 2013. Of 171 agenda items, 91 (53 per cent) were considered to be influenced by the EU. Of these 91 agenda items, 60 per cent were considered to be "directly influenced" (corresponding to legislative impact), 23 per cent were "indirectly influenced" (corresponding to political impact) and 16 per cent were influenced by both Finnish and European objectives.

In 2012, the most extensive scientific study, up until then, intended to measure EU's impact on the national parliaments of nine countries, was published<sup>6</sup>. The study calculated the percentage of legislation that was influenced by the EU by counting legal text that contained an explicit reference to the EU. This method can be deemed to be more clear-cut than that used in this study. The study found significant differences in EU impact in various countries. In Finland, only 12 per cent of the laws were found to contain a reference to the EU, while in Austria, the corresponding number was 26 per cent. The study also found major differences when comparing the various policy areas. The EU influenced very few laws in the area of housing and social policy and in the area of education. The impact was significantly greater in the areas of agriculture, environmental policy and finance where more than 30 per cent of the legislation was found to be influenced by the EU. Sweden, however, was not one of the countries studied.

In 2006, journalist Christina Johannesson, published an article in a Swedish journal of political science, *Statsvetenskaplig tidskrift*, that showed that on average, 30 per cent of the laws passed by the Swedish parliament were influenced by the

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<sup>3</sup> NOU 2012:2. Utenfor og innenfor, Norges avtaler med EU.

<sup>4</sup> KL Analyse 2014. EU's påvirkning af de danske kommuner.

<sup>5</sup> Kuntaliitto 2014. Suomen Kunnat ja EU: missä määrin EU vaikuttaa Kuntien toimintaan?

<sup>6</sup> Sylvain Brouard, Olivier Costa, Thomas König (pub). The Europeanization of Domestic Legislatures. The Empirical Implication of the Delors' Myth in Nine Countries. New York: Springer (2012).

EU<sup>7</sup>. Of these 30 per cent, 20 per cent of the laws were considered to be based on binding EU norms, whilst the remaining 10 per cent were influenced by non-binding legal documents. These calculations were based on whether or not the government bills that preceded the various laws described the need for the proposed legislation by referring to the EU.

## **Method and sample selection**

In order to provide a general picture of how the EU affects local and regional politics, it is important that the selection of agendas fairly represent Swedish municipalities, county councils and regions. For that reason, the agendas have been chosen based on SALAR's municipality group divisions, which sort municipalities into nine categories based on certain structural characteristics, such as population size and density, industrial structure and commuting patterns. The sample selection includes 44 of 290 municipalities. In the case of county councils, two of the seven county councils have been chosen by random selection. Six of the 13 rather newly formed regions have been included but are analysed together with the county councils. One agenda from the period between May 2016 and April 2017 has been chosen from each municipality, county council or region, evenly distributed throughout the year.

The 290 municipal councils meet, on average, nine times a year. This means that in Sweden, there are about 2,500 municipal council meetings annually. The sample selected thus represents about two per cent of the agendas. The percentage of county and regional council agendas that the sample represents is slightly larger. The 20 county councils and regional councils meet, on average, six times a year. The agendas included in the analyses thus account for five per cent of all the agendas.

Certain types of agenda items have not been included in the analysis. These are items dealing with information to the council, elections to various posts, as well as routine matters such as roll calls, adjustment of minutes or decisions about scheduling meetings. Including these would give a misleading estimate of how much the work of municipalities and county councils is influenced by the EU. For this reason, the analysis has therefore focused on decisions, motions, question time, and citizens' initiatives. A total of 691 agenda items are included in the analysis on the municipal level and 138 items on the county council and regional level.

The agenda items have been assessed based on whether they are influenced by the EU, regardless of whether the EU is explicitly mentioned or not. This means that the results will show a greater impact than what the studies that only focus on actual references do. If a connection is found between an agenda item and legislation or a programme on the European level, a further classification will be made regarding whether the impact is legislative or political. Reference is made

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<sup>7</sup> Christina Johannesson, EU:s inflytande över lagstiftning i Sveriges riksdag, *Statsvetenskaplig tidskrift* Vol. 107, No. 1 (2005).

to the source of the impact, most commonly in the form of a legal or other document in which the position of the EU is described. These references should therefore not be viewed as an exhaustive description of how the EU exerts impact, as there are often many documents that relate to a single matter. The following is an example of how the agendas have been assessed.

TABLE 1. Example of how agendas are assessed

Municipality	Date	Nature of item	Legislative impact	Political impact	Form of impact
Solna	27 March 2017	Measurement stations for particulate matter concentration	X		EU Directive on Ambient Air Quality and Cleaner Air for Europe
Mjölby	21 March 2017	Reporting of individual barriers in the public space		X	EU Handicap Strategy 2010–2012
Stenungsund	19 September 2016	New fee invoicing model for Planning and Building Permit fees			

The agenda item from the Solna Municipal Council relates to measuring stations for particulate matter concentration in the air, which is influenced by the EU Directive on Ambient Air Quality and Cleaner Air for Europe. This directive includes binding criteria for the number of measurement stations and their placement. If a municipality fails to build the correct number of stations, or if the stations are in the wrong places, the municipality can find itself in court. In cases where the measurement shows that the particulate matter concentration exceeds the limit set, the municipality is required to take action. If no adequate action is taken, the municipality can again be taken to court. This happened in the case of Stockholm, for example, regarding an excessive particulate matter concentration on Hornsgatan Street.

The Liberal Party in the Municipality of Mjölby filed a motion regarding the reporting of individual barriers in public spaces. The EU had adopted the European Disability Strategy 2010–2020, which promotes access to goods, services and assistive devices for persons with functional disabilities. In this context, the European Commission also sought to improve information about barriers for societal integration of persons with functional disabilities. The motion in Mjölby was influenced by these initiatives, but there are no sanctions imposed if the Municipality of Mjölby decides not to take part in the study.

With regards to the introduction of a new invoicing model for Planning and Building Permit Fees in the Municipality of Stenungsund, there are no documents on the EU level that would impact the decision.

The agenda method exhibits certain flaws as an instrument for measuring the impact of the EU. Firstly, the method does not provide a description of all the ways

that the EU can impact the municipal sector. There are municipal activities that do not come before the municipal council, but instead are dealt with in municipal committees and administrations. One example is labour law issues, which is an area where the EU has a great deal of impact on municipalities and county councils in their role as employers, but evidence of this does not appear amongst the agenda items. Secondly, this method does not take into consideration the divergent level of importance of the various issues. Thus, a motion to stop importing chicken from Thailand has the same effect on the results as a decision to build a road or a residential tract. Thirdly, the results of the analysis are largely dependent on how the concept of “impact” is defined.

The method is thus subject to a certain degree of uncertainty and subjectivity. The interpretation of which agenda items should be deemed as impacted can vary amongst various experts’ opinions. In this report, the concept of “impact” has been used cautiously. Only those agenda items that show a connection to a document on the EU level are considered as being impacted. For example, the agenda item from the Stenungsund Municipal Council dealt with a motion for the measurement of traces of narcotics in wastewater. Directive 91/271/EC concerning urban waste-water treatment does not contain any reference values for narcotics, but as the Directive governs the entire area, the item was considered to show legislative impact. On the other hand, an agenda item from the Kumla Municipal Council that dealt with an interim report on water and sewage was not considered as being impacted, as the item was only about the report. In addition, for example, a citizen’s initiative regarding the felling of trees and thinning of ground vegetation in a local forest was not considered as influenced, even though there is an EU forest strategy that contains recommendations for sustainable forest management. This determination was made because the connection to this document was negligible, and the initiative related to a very limited area.

The flaws in the method have been weighed against its advantages, such as the fact that the method provides a current and easily accessible overview of the issues that municipalities, county councils and regions work with, for which a quantitative estimate works well. In addition, as this method has formed the basis for previous research, it lends itself to a comparative perspective.

The following section describes the impact of the EU, first discussed according to the two overarching categories of legislative and political impact, and then by subject area. The description will address the most common issues that arose during the analysis of the agenda items, but due to space constraints, it will not address the more rare instances of impact.

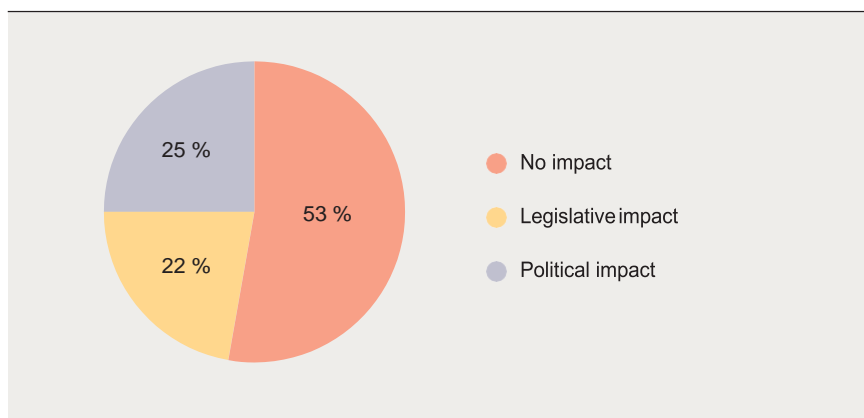
## Results

This study examines how the EU impacts Swedish municipalities, county councils and regions. In answer to the question of how large a percentage of the items on the agendas of the councils are influenced by the EU, the study found that somewhat less than half are, in the case of municipalities, and somewhat more than half are in the case of the county and regional councils.

The results of the quantitative analysis are based on a calculation of the percentage of issues on the agendas that are influenced by the EU. There was an explicit reference to the EU only in the following five agenda items: in Gothenburg Municipal Council, in a motion to increase the visibility of EU membership in the city; in Alingsås Municipal Council, in a motion about water quality in lakes and watercourses; twice in Luleå Municipal Council – first, in a declaration of intent to expand Luleå Harbour, which is part of the European TEN-T Network, and secondly, in a motion regarding an offer of bicycles as employment benefits, which was supported by a reference to the fact that the Municipality of Luleå has joined the EU Covenant of Mayors for Climate and Energy. Finally, the EU was expressly mentioned in a decision regarding the abrogation of a building plan in the Municipality of Tierp, in response to the plan having been opposed in an appeal because it violated EU environmental law. The fact that there were so few explicit references to the EU shows that a non-quantitative assessment of agenda items is a more appropriate method for measuring the impact of EU on local politics in Sweden.

The results of the quantitative assessment of agenda items differs between municipal councils, on one hand, and county and regional councils, on the other. The analysis of the 691 agenda items from 44 municipal councils shows that about 22 per cent of the items are impacted by binding EU legislation (151 items). The various non-binding EU action plans and programmes impact 25 per cent of the items (172 items). In total, EU impacts 47 per cent, in other words, just under half of all items on municipal council agendas (323 of 691).

FIGURE 1. Impact on the agenda items of municipal councils



The impact appears somewhat different when we view categories of municipalities separately. The difference between legislative impact and political impact is greatest in those municipalities that belong to Group A, which consists of the major cities and their adjacent municipalities. Of the 165 agenda items that belong to this category, 38 are impacted by binding EU legislation (23 per cent), whilst 54 (32 per cent) are impacted by non-binding documents. In total, EU impact in the major cities is about 55 per cent (92 of 165 items). The impact on municipalities that belong to Group B (large towns and their adjacent municipalities) and Group C (smaller towns and rural municipalities) is somewhat less and more even. Legislative impact in these groups has been calculated to be 22 per cent (55 of 264 items in Group B, and 58 of 262 in Group C), whilst non-binding documents impacted between 21 and 24 per cent of the agenda items (63 of 264 in Group B, and 55 of 262 in Group C).

In all groups of municipalities, EU competition legislation (in total, 106 of 691 agenda items) and environmental legislation (30 of 691) accounted for the large areas of legislative impact. Amongst non-binding programmes and action plans, non-binding climate objectives and environmental action plans (41 of 691 agenda items), EU budgetary rules (37 of 691 agenda items) and healthcare action plans (28 of 691) show the most political impact on the municipal level.

FIGURE 2. Legislative impact on the agenda items of municipal councils

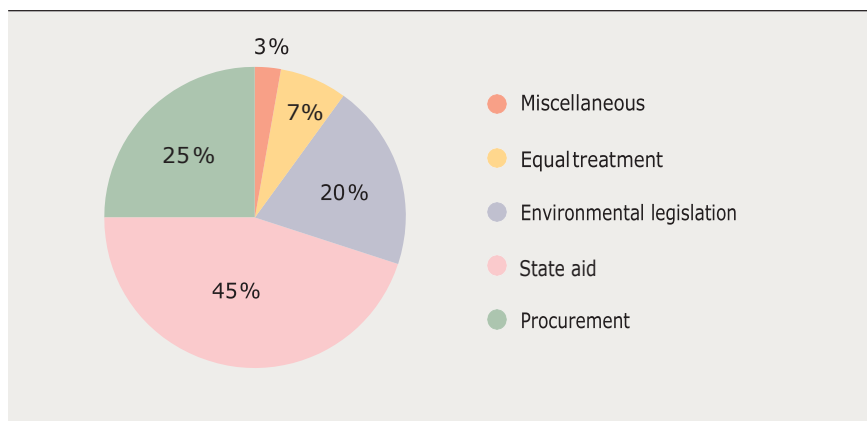
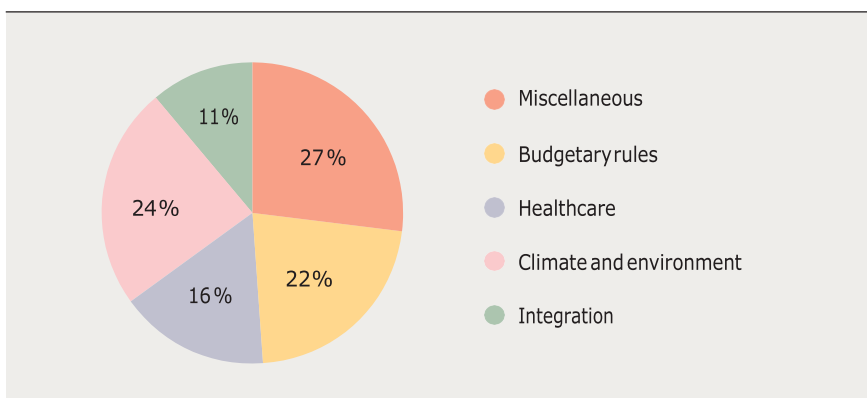


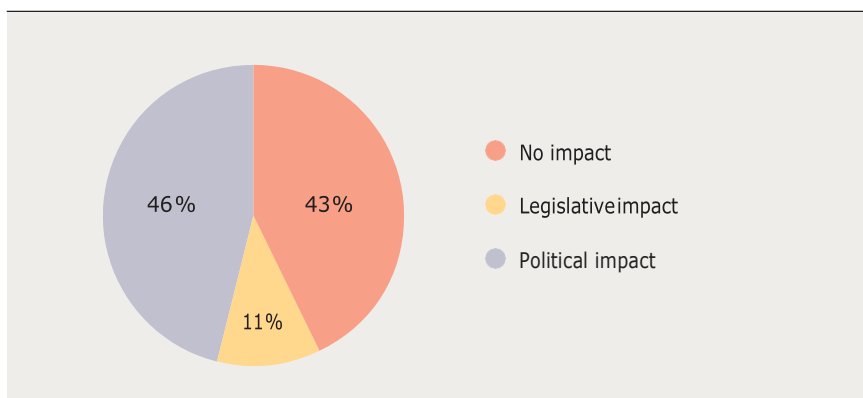
FIGURE 3. Political impact on the agenda items of municipal councils





In the case of county and regional councils, the results are different. The analysis of four agendas from regional councils and two agendas from county councils containing a total of 138 agenda items show that only 11 per cent (16 of 138) indicate EU legislative impact, which almost entirely relate to competition legislation. The political impact of the EU is significantly greater and is calculated as affecting 46 per cent of the agenda items (63 of 138). One explanation for this difference is that municipalities, county councils and regions have different functions and therefore are influenced to differing extents. Most of the agenda items from county and regional councils related to healthcare, which is a substantive area in which there are action plans on the EU level. All of these items have therefore been deemed to show political impact, although this impact can be somewhat peripheral. According to this interpretation, EU measures taken in the area of healthcare impacted about 30 per cent of agenda items (42 of 138) from county and regional councils. Further research is required to determine if this had effects on individual county councils and regions. Another method of analysis could thus provide a different estimate of EU impact.

FIGURE 4. Impact on the agenda items of county and regional councils



How does this result relate to SALAR's previous report and the studies from the other Nordic countries? In 2010, SALAR issued an estimate that about 60 per cent of the matters that were dealt with on an average municipal council's agenda were impacted by the EU, as compared with 50 per cent of the average agenda on the county council or regional level. This report also found an even distribution between legislative and political impact. The present results shows somewhat less impact on the municipal level and a slightly greater impact on the county council and regional level. This should not necessarily be interpreted as a significant change in the impact of the EU on Swedish municipalities, county councils and regions. These differences can, in part, be the results of the uncertainty inherent in the agenda method. The analyses were done by different experts, and the subjectivity of the method can make certain discrepancies in interpretation unavoidable. On the other hand, differences can arise from a change in the types of mat-

ters that municipalities, county councils and regions deal with today, in comparison to 2010. Although there have not been especially many new laws introduced since 2010, the introduction of the European Semester has led to the Commission communicating more precise recommendations to the Member States regarding the fulfilment of the Development Goals of the Europe 2020 Strategy. In particular, the monitoring of the budget balance and debt ratios has become more stringent. Most of the differences in the results are, however, due either to changes in the type of matters found on municipal and regional agendas. For example, one explanation of the smaller percentage of legislative impact, especially on the county council and regional levels is that there are significantly fewer agenda items today than in 2010 that deal with the introduction of systems to promote freedom of choice in healthcare and social services. All of these types of decisions had been influenced by EU competition legislation. The present study also found that there were very few items that dealt with the areas reported in the previous report, such as food protection, auditing of municipal corporations, employment, education, information technology and regional development. This may seem somewhat surprising and additional research will be necessary in order to determine whether these issues are of less importance in the work of municipalities today than in 2010.

A comparison with the other Nordic countries is a little more difficult, as Danish, Finnish and Norwegian municipalities have areas of responsibility that are different from those of Swedish municipalities. Generally, this report shows that the impact of the EU on Swedish municipalities is at about the same level as the impact of the EU on Danish and Finnish municipalities, even though the substantive areas may differ. The fact that the Norwegian report shows significantly greater impact may seem odd. The EEA Agreement admittedly contains large parts of some EU provisions, but not all of them. After having read the working documents associated with the report, we have reached the conclusion that the higher figure is a result of, not only the differences in the substantive areas, but also due to the fact that the authors of the Norwegian study had used a broader definition of the concept of *impact* in their analytical efforts than that which SALAR had used.

## EU instruments

In the description of the results of the study, references are made to various instruments available to the EU for influencing the policies of the various Member States. In order to make it easier to understand the arguments and rationale set out here, two such instruments will be explained in greater detail in this section. These are binding laws, rules and regulations and the Europe 2020 Strategy in connection to the European Semester.

### Binding legislation

Everything that the EU decides must have support in the treaties that specify the kind of issues that the Member States have agreed should be elevated to the level of European cooperation. There are two main treaties, the Treaty on the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). These indicate, *inter alia*, how the EU institutions are meant to function and how the decision-making process should work.

Based on these treaties, the EU has the power to adopt binding legislation in the form of Regulations and Directives. Regulations enter into force immediately throughout the Union, whilst Directives state what objectives are to be achieved, but leave it to the Member States to decide the details of how the Directive is to be implemented. If there is a difference of opinion as to how the laws are to be interpreted, it is the European Court of Justice that decides, and in certain cases, is empowered to invalidate national laws and administrative acts that violate EU provisions. Because Regulations and Directives are supplemented by the decisions of the court, the European body of laws grows, in part, from court decisions.

In a large number of policy areas, *both* the EU and the Member States have the right to make decisions. The level at which the decisions are to be made will then be decided on a case-to-case basis, using what is known as the *subsidiarity principle*. This means that the decision should be made as close to the citizens as possible, and that if a decision is made on the EU level, there must be a justification why doing so is more efficient than formulating the decision by means of a national measure. The Member States are entitled to protest if they feel that a proposal violates the subsidiarity principle, and can thereby prevent the EU from legislating on the issue in question. This does not only apply to the national level, but also to lower levels if the Member States feel that local or regional bodies should be the ones to make a decision on that issue.

When the EU makes a binding decision, the process generally follows what is known as the “ordinary legislative procedure”, which means that the European Commission presents the proposed legislation and the European Parliament, together with the Council, votes on it. The Council can approve the legislation by a qualified majority, but in most cases, unanimity is required. This means that the Swedish Government is usually responsible for legislation that “comes from Brussels”.

## **The Europe 2020 Strategy and the European Semester**

In addition to binding legislation, the EU also issues various forms of non-binding legal instruments. The Commission issues communications that are non-binding on the Member States, but nevertheless have a certain persuasive authority as they represent the Commission's view on an issue. Other examples are the Commission's green and white papers, which are two forms of documents intended to stimulate discussion and can be seen as guidelines for later action programmes or possibly, subsequent legislation.

In addition to working with individual substantive areas, EU adopts more long-term strategies and action plans that set overarching objectives for cooperation. The central strategy of the EU, *Europe 2020 – A strategy for smart, sustainable and inclusive growth*, focuses on recovery from the financial crisis and ensuring that the Union is better prepared to handle similar crises in the future, by dealing with structural weaknesses. The key undertakings relate to investments and other efforts in education and innovation, a sustainable economy, a high level of employment and reduced poverty, as well as measures to combat climate change.

The Europe 2020 Strategy expressly identifies local and regional authorities as important partners in cooperative efforts to achieve the objectives of the Strategy. The areas covered by the Europe 2020 Strategy mostly concern areas where the treaties provide that the EU must respect the right of the Member States to self-determination, and must take into account areas where the EU is not empowered to legislate. The EU faces this challenge by setting joint objectives and then offering a framework for sharing information and good examples amongst the Member States.

The efforts of the Member States to realize the objectives are reported on a regular basis. The expectation is that this voluntary sharing of ideas will lead to a harmonization of the policies of the Member States, by encouraging a consensus with regard to policy issues. In recent years, the EU has transferred many of the substantive areas of the Europe 2020 Strategy to the European Semester, previously dealt with by what was known as the "open coordination method". The European Semester originates from the financial crisis that the EU has undergone since 2010 and was first conceived as a strategy to improve the central monitoring of the budget processes and economic reforms of the Member States. Since then, the European Semester has become the pre-eminent mechanism for coordinating various development objectives that cannot be proposed as binding legislation.

The European Semester begins with the Member States submitting annual *national reform programmes*. There they set out in detail their plans for achieving the goals of the Europe 2020 Strategy. The Commission then examines these plans and sends back what is known as *country-specific recommendations* regarding the measures that each country should take during the ensuing twelve months. These recommendations are non-binding, but have a certain persuasive authority, as they have been approved by the Council of the European Union, the highest political decision-making body of the EU.

The municipalities are influenced, in turn, by the national reform plan and the objectives that are established on the national and the EU level. Like many Member States, Sweden also has national and regional objectives with clear connections to the EU 2020 Strategy. The Government's strategy for sustainable regional growth and attractiveness 2015-2020 is based on the objectives of Europe 2020.

The forum that is associated with this strategy enables a sharing of responsibility for the implementation of regional growth policy between the regional and national levels. Many of the municipalities, county councils and regions of Sweden have integrated the objectives of the Europe 2020 Strategy with their development strategies, operational plans and annual budgets. In 2013, SALAR published an overview of the Europe 2020 Strategy's regional support, which showed that regions use the objectives of the Strategy as a kind of spur, frame of reference and benchmark<sup>8</sup>. Municipalities, county councils and regions can benefit for the knowledge platform and the sharing of good examples that takes place, as well as of the resources that the European Structural and Investment Funds make available for the financing of development projects. In order to obtain support from EU funds and programmes, the regional projects must contribute to achieving the objectives<sup>9</sup>.

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<sup>8</sup> SALAR 2013. Europa 2020 – strategins regionala förankring.

<sup>9</sup> SALAR 2015. EU:s fonder och program 2014-2020. En snabbguide för kommuner, landsting och regioner.

## **Legislative impact**

This section describes the issues on the councils' agendas that are impacted by the EU through binding legislation in the form of Regulations and Directives. The main substantive areas involved are EU competition legislation, environmental law and equal treatment.

### **EU competition legislation**

EU competition legislation exerts significant impact on local politics in Sweden. In the analysis, 106 of 691 agenda items from municipal councils and 14 of 138 agenda items from county and regional council were impacted by these laws. The EU's primary task is to maintain an internal market with free movement of goods, persons, services and capital. In order to create this kind of mobility, measures are needed to ensure that businesses and employees can compete on equal terms regardless of the Member State from which they come. This influences the public sector by rules that prohibit special treatment of individual companies, which would lead to unfair competition. The rules for public procurement and government aid have their greatest effect on how municipalities, county councils and regions conduct their activities.

Although the EU's competition legislation influences a great many matters, it does not impact everything. Certain services that the public sector offers are of fundamental importance to the functioning of society and the welfare of the citizens. These include healthcare, public transport, waste collection and disposal. In the context of EU law, these are called public services and occupy a special position with regard to the competition rules of the EU.

An important distinction is made between services of general economic interest and services of general non-economic interest, with the latter partially deemed beyond the application of EU competition rules. Examples of non-economic services in which the EU has little or no jurisdiction are the police force, the judicial system and the social insurance system. In 2011, the EU adopted the Quality Framework for Services of General Interest in Europe<sup>10</sup> and updated rules regarding State aid and public procurement, but what is still missing is a clear definition of what is considered an economic interest. It is often the European Court of Justice that decides this on a case-to-case basis. Examples of substantive areas that have been deemed to belong to the economic category are transportation, energy and communications. The negotiations as to which activities belong to which group of services is a crucial issue for EU cooperation as it sets limits for the issues about which the EU is entitled to make decisions. The future development of this issue will have a major effect on how the Member States and their local and regional bodies will be able to operate their activities.

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<sup>10</sup> COM (2011) 900 Message from the Commission to the European Parliament, the Council, European Economic and Social Committee. A Quality Framework for Services of General Interest in Europe.

## State aid rules

The EU prohibits Member States from providing financial aid to certain businesses or to production that leads to a distortion of competition on the market. Article 107 of the Treaty on the Functioning of the European Union provides that:

*Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be deemed incompatible with the internal market.*

No exact definition of what is considered State aid is included in the Treaties, but there are many forms of measures, such as, for example, direct State aid, subsidized loans, tax relief or the offering of goods and services for an advantageous price. What is a distortion of competition large enough to affect trade amongst the Member States is also not specified in detail, but as a general rule, all selective support to a business with competition is deemed to potentially distort competition as free trade in goods and services should prevail throughout the Union. At the same time, a great many exceptions have been made from this general rule in cases of aid that EU considers to be consistent with the internal market, for example, certain forms of aid to research and development, environmental protection, broadband or aid to local infrastructure<sup>11</sup>.

The State aid rules do not merely deal with aid using state funds, but also include aid from local and regional public sector bodies. This means that Swedish municipalities and county councils must abide by these rules in their operations. The State aid rules can apply in many other situations but in the analysis of agenda items, there are mainly two types of issues that are relevant. These are the purchase and sale of real property and acting as a guarantor. In total, the EU rules regarding State aid impacted 68 of 691 agenda items from municipal councils, but only 5 of 138 items from county and regional councils.

Many agendas contained items regarding the purchase and sale of real estate by municipalities and county councils. This activity can be deemed to be impermissible State aid if the price is not one that reflects market value. In other words, if a municipality or a county council favours a business by paying more for a property or by selling it for less than the price that would have resulted from free bidding. Municipalities and county councils should therefore make an advance determination in all sales or purchases of land and buildings as to whether the EU State aid rules apply.

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<sup>11</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty 651/2014; Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid.

The other type of agenda items that is impacted by the State aid rules are matters relating to guarantees. When a municipality or a county council acts as a guarantor for a business, they are taking a risk, which normally is done in return for a fee. If this fee is lower than the prevailing market level, it favours the individual business and can therefore be considered to be impermissible State aid, even if the guarantor is never called on to pay<sup>12</sup>.

### **Public procurements**

Public procurements can be described as trade by the public sector in goods and services, and thereby has a clear connection to the EU competition rules. The purpose of legislation in this area is to prevent the public sector's purchases of goods and services from favouring certain businesses at the expense of others, thus distorting market competition. The EU rules regarding public procurement impacted 38 of 691 agenda items from municipal councils and 9 of 138 items from county and regional councils.

In 2014, the EU adopted a broad update of procurement rules, which entered into force in Sweden on 1 January 2017. The new rules consist of three Directives. These are the "Classic Directive" (2014/24/EU) regarding public procurement, the "Supply Directive" (2014/25/EU), which deals with procurement in the areas of water, energy, transports and postal services, and a new Directive (2014/23/EU) regarding the allocation of building and service concessions. The purpose of this updating was to make procurements simpler and more flexible. There is also more leeway for environmental and social concerns. In summary, the new rules give the procuring entity greater freedom of action, but they are also less clear to a certain extent with regard to the evaluation of bids and allocation criteria.

The EU rules apply only to transactions that exceed a certain threshold value, as only procurements of a certain size are deemed to be capable of affecting trade amongst the Member States. Procurements that are above the threshold value must be advertised throughout the EU through a special database, so that businesses in all the Member States will have an opportunity to submit bids.

At the same time, the EU's impact in the area of procurements is not entirely limited to the contracts that are above the threshold values. The fundamental EU principle of free movement in the internal market poses certain requirements. These requirements, such as the demand for transparency and predictability throughout the entire procurement process and the prohibition against discrimination regarding bids on the grounds of nationality, apply regardless of whether the procurement is above or below the threshold values. In addition, Sweden has chosen to also include contracts below the threshold values within the purview of

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<sup>12</sup> Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees.



the Public Procurement Act (*LOU*) at the time when the EU Directive was incorporated into national law.

## **Environment**

EU environmental legislation is the next largest area in which the EU exerts legislative impact on the agendas, but only in the case of the municipal councils where 30 of the 691 agenda items related to areas that are governed by this legislation.

The Treaty on the European Union provides that the Union is to work to achieve the following objectives:

- Preserving, protecting and improving the environment.
- Protecting human health.
- Using natural resources carefully and efficiently.
- Promoting measures on the international level intended to solve regional or global environmental problems, and most particularly, to combat climate change.

With these objectives in mind, the EU has enacted rules that relate to most environmental areas, such as the protection of water, forests, air, animals and plants. This legislation intends not only to protect the environment, but also to facilitate mobility on the internal market by creating unified environmental standards for goods and services within the Union. Much of Swedish environmental law today has its origin in EU Directives that impact municipalities, county councils and regions in a great many areas. In the case of municipalities, this has primarily meant new rules and tasks in their role as the entity responsible for environmental and public health protection. In addition, municipalities, county councils and regions are required to take into consideration the EU rules in community planning and building.

## **Supervisory regulation**

The Swedish Environmental Code tasks the municipalities with extensive supervisory and regulatory responsibility for environmental and public health protection, as well as for the handling of chemical products and waste material. Much of Swedish legislation in this area has its origins in EU legislation. This section will highlight two examples from the agenda analysis that relate to water, waste and chemicals.

The municipalities are responsible for *water and waste management* in their geographical area. In these areas, they are impacted by two EU Directives. Framework Directive 2014/101/EU for water relates to water planning and water management within the EU and applies to all types of water, including surface water, groundwater, lakes, rivers and coastal waters. Framework Directive 2008/98/EC for waste contains the principles for how the Member States should handle all forms of waste, such as how landfill should be managed. These Directives set the

framework for municipal planning and organization of water and sewage handling.

Regarding *chemical products and waste*, the municipalities inspect those who manufacture and use chemicals. The EU influences this work primarily by what is known as the REACH regulation, which establishes the rules for the evaluation and approval of chemicals.

### **Community planning and building**

Swedish law grants the municipalities a planning monopoly, which means that every municipality has the sole right to decide how land will be developed and used within its territory. The municipal council decides, for example, to build roads, residential areas and marinas. This often entails approving detailed development plans for how projects should be designed. This type of activity is impacted by the EU through legislation that requires that special consideration be given to the environment. One such instrument is the *Strategic Environmental Assessment Directive* or SEA Directive<sup>13</sup>. This Directive has been incorporated into the Swedish Planning and Building Act (*PBL*), and provides that an assessment must be made of the impact that a planned project can have on the environment. An environmental assessment must be made for every municipal comprehensive plan, detailed development plan and plan programme that can be assumed to have significant environmental impact. The Directive does not include a detailed definition of significant environmental impact, but a rule of thumb is that municipal comprehensive plans are so extensive that a strategic environmental assessment must be prepared in every case.

One additional way that the EU influences municipalities in their role as community builders is through provisions regarding *increased energy efficiency* (Directive 2012/27/EU) and *the energy performance of buildings* (Directive 2010/31/EU), which require Member States to introduce a number of rules and regulations to increase the efficiency of their energy use in various types of properties. These Directives impact municipalities, county councils and regions on issues such as renovation and new construction of premises.

### **Equal treatment**

The last area impacting local politics, reported by this analysis report, is equal treatment. Of the 691 agenda items from municipal councils, 10 were related to this area. Sweden is required to abide by the EU Charter of Fundamental Rights, which summarizes the social, political and economic rights of citizens. Article 21, regarding non-discrimination, provide that:

*Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other*

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<sup>13</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.

*opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.*

The Charter became legally binding with the ratification of the Treaty of Lisbon. In addition to the Charter, the EU adopted two Central Directives that set out the minimum legal protection regarding anti-discrimination. These are Directive 2000/43/EC, which prohibits discrimination on the grounds of ethnic origin both in the public and private sector, and Directive 2000/78/EC, which prohibits discrimination on the grounds of functional disability, age, sexual preference or religion at work. Negotiations are going on at present regarding a new Directive that will also expand the protection against discrimination in areas other than at work. All parts of the government administration in Sweden are responsible to ensure that these *fundamental rights* are respected. Municipalities and county councils, in their capacity of employers, are responsible to comply with the Directive regarding discrimination at work. The rights of those with functional impairments to fully participate in society have been additionally strengthened by the European Disability Strategy. In 2015, the Commission proposed a European Accessibility Act that would include binding accessibility requirements for products and services<sup>14</sup>. Because the negotiations regarding this proposal have not yet been concluded, matters that relate to accessibility measures for persons with functional disabilities outside the workplace have not been deemed as politically influenced.

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<sup>14</sup> COM(2015) 615 Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services.

## Political impact

This section discusses the analysis of agenda items that are influenced by the EU by non-binding decisions and guidelines, mainly with respect to four substantive areas where the forms and extent of impact by the EU differs.

### Budget balance

The financial crisis that struck the EU's Member States in 2008 has led to a strengthening of monitoring and supervision of national budget processes, and to more attention being directed by the budget balance and debt ratios. The EU rules for the public finances of its Member States were presented in what was known as the Stability and Growth Pact. A part of that pact, *the corrective arm*, meant that sanctions could be directed to States whose budget deficit or public debt exceeds the reference values. As a non-member of the Euro Zone, Sweden is required to submit an annual *convergence programme* that includes the country's plans to achieve stability.

EU's rules regarding public finances impact municipalities and county councils indirectly, but because the discussions regarding the budget deficit have become very serious, there is no doubt that there is some impact. It is largely Swedish legislation that governs municipal finances. According to the Municipalities Act, a municipality's budget must be prepared according to the principle that income should exceed costs.

The budget deficit is just as much of a problem on the municipal level, and municipal finances are part of the calculation of the national budget balance and the public debt. For that reason, the agenda items that relate to the ongoing budget process have been characterized as politically impacted. Of the 691 agenda items from the municipal councils, 27 were deemed to be politically impacted, and 7 out of 138 points from the county and regional councils related to the ongoing budget processes.

### Healthcare

A large part of the political impact of EU on the county council and regional level originate from the EU action plans regarding healthcare. Of 138 agenda items from county and regional councils, 42 items are related to this area. The organization and financing of the healthcare system is a national priority in the Member States, but according to the Treaties, the EU has been given a certain role in relation to public health. Article 168 of the Treaty on the Functioning of the European Union provides that:

*Union action, which shall complement national policies, shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health.*

Municipalities, county councils and regions play a key role in public health policy in Sweden as they are responsible for strategically crucial functions, such as healthcare and school. There can be many interpretations as to what the difference

is between public health and other components of the healthcare system, and this means that the role of the EU is sometimes not a clearly delineated one. With regard to public health the EU's role is primarily to prevent illnesses and promote a healthy environment and lifestyle. The EU, for example, strives to combat smoking, drugs, alcohol-related injuries, as well as to promote a healthy diet and good mental health. In addition, there are also opportunities to seek funds for projects that relate to public health from the EU Health Programme and from other sources.

The third EU action programme in the area of health<sup>15</sup> also includes aspects of eldercare and long-term care. The objectives for this process is to guarantee *accessibility, quality and sustainability* in care, *inter alia*, by shortening queues to care, improving the efficiency and safety of treatment and equipment, and simplifying administrative procedures.

### **Climate and the environment**

The EU has adopted a number of overarching objectives regarding climate and environmental policy that impact municipalities, county councils and regions. The Europe 2020 Strategy reminds the Member States of their previous commitment to achieve:

- A 20 per cent reduction in greenhouse gas emissions.
- A 20 per cent increase in energy efficiency.
- Renewable energy representing 20 per cent of the total energy consumption.

Sweden has formulated national climate and energy policy goals as part of the Europe 2020 Strategy, and is striving for a 40 per cent reduction in greenhouse gases, and a renewable energy percentage of at least 50 per cent. This strategy identifies local and regional bodies as important actors for ensuring successful implementation. The large framework for the EU environmental strategy is the *Seventh Environmental Action Programme for 2014-2020*, which was adopted in 2013<sup>16</sup>. The programme sets a number of goals for the environmental policy of the EU and its Member States, which will be following a long-term vision.

*In 2050, we live well, within the planet's ecological limits. Our prosperity and healthy environment stem from an innovative, circular economy where nothing is wasted and where natural resources are managed sustainably, and biodiversity is protected, valued and restored in ways that enhance our society's resilience. Our low-carbon growth has long been decoupled from resource use, setting the pace for a safe and sustainable global society.*

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<sup>15</sup> Regulation (EU) No 282/2014 of the European Parliament and of the Council of 11 March 2014 on the establishment of a third Programme for the Union's action in the field of health (2014-2020).

<sup>16</sup> Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet.

This objective is to be realized through plans reflecting the *European Strategy for Low-Emission Mobility*, which recommends measures to reduce emissions from the transport sector<sup>17</sup>. While negotiations were continuing with an eye to new legislation regarding recycling and the circular economy, the Commission, in 2015, adopted an *Action Plan for the Circular Economy*, with the intent of determining measures to close the loop in a product's life cycle<sup>18</sup>. The individual environmental strategies of the municipalities, country councils and regions can thus not be separated from the European cooperation. The municipal agendas had 41 items that dealt with similar climate and environmental cases.

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<sup>17</sup> COM (2016) 501. A European Strategy for Low-Emission Mobility.

<sup>18</sup> COM (2015) 614 Closing the loop – An EU action plan for the circular economy

# The EU in Local Politics

This report examines the impact of the European Union on Swedish municipalities, county councils and regions. It provides a quantitative estimate of the number of political issues dealt with on local and regional level, which are affected by the EU. It also describes more closely the main areas influenced by the EU. This has been done through an analysis of meeting agendas of municipal councils, county councils and regional councils and through an assessment of whether the items on the agendas concern subjects that are affected by the EU or not.

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