

Ensuring Social Security? An Examination of the Swedish Social Insurance Code

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Summary

Social security is a legal concept with a basis in the Swedish constitution as well as international conventions. It requires that society guarantees a safety net expected to provide economic security beyond basic social assistance. Furthermore, social security should be predictable and offer long-term security for the individual. In Sweden, social security is to be secured through a comprehensive understanding of social insurance encompassing both work-based and residence-based benefits. Thus, social security, administered by the Social Insurance Agency (Försäkringskassan), constitutes a key part of the Swedish welfare model with the overarching aim of ensuring that everyone has access to rights-based economic security through cash benefits.

As indicated, there is a general perception that the Swedish model, with its general and compulsory social insurance, provides adequate protection for everyone; however, there is much to suggest that this goal is increasingly challenged, both in practice and in principle. Social science research has for years highlighted a range of problems and challenges linked to particular benefits in the social insurance, including reduced compensation levels, increased income inequality, and, in some cases, increased indebtedness for individuals. In our report, we also ask the overarching question of whether there is a lacking belief in the value of social security as such.

Social insurance has since 2011 been regulated by the Social Insurance Code (socialförsäkringsbalken). This is a rights-based legislation aimed at providing social security through different forms of compensation specified in the law. The benefits have developed over time based on partly different motivations and have subsequently been compiled

in the Code. This makes the rules of the Social Insurance Code both complex and detailed.

So, does social insurance provide the social security promised by law? To answer this, the capacity of the Social Insurance Code to fulfil its purpose must be examined from a legal perspective. We analyse its expediency based on both the material content of the rules – in other words, whether the level or scope of support leads to what can be expected in order to achieve social security – and the formal quality of the rules. The latter refers to legal norms and principles on various hierarchical levels, including who may create or interpret rules. High-quality regulations include clarity, transparency, and applicability.

As the Social Insurance Code contains some 30 different benefits, our review is limited to three: sickness benefit, sickness compensation, and housing allowance. These benefits come with different legal structures and challenges. Our selection is motivated by legal technical reasons, as well as social relevance. They represent both types of insurance (i.e., work-based and residence-based benefits) and are constructed to compensate for income loss or address a targeted need. Despite these differences, there are also similar legal terms and criteria. These are all benefits commonly encountered during an individual's lifespan while also being crucial when it comes to providing social and economic security.

The legal structure and norms are key for understanding the content of these benefits. We examine how changes in social norms and values have influenced the legal development of social insurance in general and specifically when it comes to the studied benefits.

The report shows that the income loss principle in sickness benefit and sickness compensation has eroded over time, partly due to the legal construction of the concept of income. Furthermore, both the construction and application of legal criteria, such as illness and work capacity, affect the chances of receiving compensation. Expectations concerning objective and measurable interpretations, combined with detailed and complex regulations, have decreased individual assessments. The cost of insurance, along with increased individual responsibility and flexibility, has taken precedence over economic security.

The review of housing allowance shows that the regulation has become increasingly complex and difficult to navigate. The legislation can be described as inflexible, where the goal of distributional accuracy

has overridden legal values such as clarity, proportionality regarding accountability, and respect for individual autonomy.

So, which conclusions may be drawn regarding the goals to achieve social security included in the Social Insurance Code? It is not possible to present a general answer for all benefits. However, it is not legally acceptable to claim that the system is effective overall if some benefits fail to meet the goal of social security, which means that the requirement for expediency and the expectation of delivering social security apply to all benefits. Considering this, our review of these three benefits offers a solid basis for conclusions.

Our overall conclusion is that the Social Insurance Code exhibits significant deficiencies in terms of ensuring social security. The erosion of the income loss principle, legal uncertainty, and complex rules undermine both material and formal expediency.

The Social Insurance Code lacks legal stability, and the willingness to ensure the core value of securing social security by protecting income loss and establishing a safety-net above poverty protection is challenged by competing economic interests. There is a lack of clear political discussion about what social security should entail. We argue that policymakers need to address the purpose and goals of the Social Security Code. Otherwise, there is a significant risk that the fundamental values and principles of social insurance will be undermined.

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