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# The management of local social services in Spain

## *A gestão de serviços sociais locais na Espanha*

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**Abstract:** This paper reviews the organizational, competency and delivery system of social services at local level, with emphasis on Catalonia, understanding that local authorities become the essential unit from which to deploy basic social services, thus responding to universality, proximity and decentralization and contributing to ensuring the welfare state.

**Keywords:** Social services. Direct and indirect provision. Social concert. Management. Spain.

**Resumo:** Neste trabalho se revê o sistema organizativo, de competência e de prestação dos serviços sociais a nível local, com ênfase na Catalunha, entendendo que as coletividades locais se tornam a unidade imprescindível a partir da qual se desdobram os serviços sociais básicos, respondendo, assim, à universalidade, proximidade e descentralização e contribuindo para garantir o Estado-Providência.

**Palavras-chave:** Serviços sociais. Prestação direta e indireta. Concertação social. Gestão. Espanha.

**Summary:** **1** Introduction – **2** Types of social services: basic and specialized services – **3** Local social services: competences in the field – **4** Forms of provision of local public social services – **5** The management of social services for people in Catalonia – **6** Decree 69/2020, 14 July: how does the provision of social services impact people? – **7** Conclusions – References

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## 1 Introduction<sup>1</sup>

In Spain, social services (SS) are part of the Welfare State situation, together with social security, health and education systems, employment and housing policies, among others.

The history of the welfare state in Spain can be traced back to the sixties, specifically in 1963, when the public protection of the Spanish State surpasses the so-called “public beneficence” and goes on to develop social services, the Social Security System.

The legislative structure of the Social Services in Spain was born from Article 148.1.20 of the Spanish Constitution (SC) in 1978, where 17 autonomous systems are formed and assigned competence in social assistance. The Autonomous Communities (AACC) assume these competences in their Statutes of Autonomy (SA) and regulate them through different autonomous laws of Social Services. In this way, each community concretized its Statutes of Autonomy, being Catalonia and the Basque Country the first in 1979 and Ceuta and Melilla the last in 1995. From this follows the laws of social services that ARIAS ASTRAY et al., call first generation laws, promulgated and published between 1982 and 1992, being the first the Basque Country in 1982 and the last Cantabria in 1992.<sup>2</sup> Currently, the Autonomous Communities have what we would call the second-generation laws, which contemplate periods between 2003 and 2019. We could say that the “least updated” are those of Asturias, Madrid and Murcia (2003), followed by Navarre (2006), Catalonia and Cantabria (2007), Galicia and the Basque Country (2008), La Rioja Aragon and the Balearic Islands (2009), Castilla-La Mancha and Castilla y León (2010), Extremadura (2015), Andalusia (2016), with the Valencian Community and Cantabria being the most updated (2019).

We note that the social services system is the most decentralized of those that shape the pillars of the welfare state and in it local bodies have played a decisive role “despite the economic-financial difficulties and those derived from the atomized structure of the municipal plant, the fact is that the exercise of this activity and its role as agents of welfare has contributed significantly to the achievement of the purposes of the social State, characterization that, together with those of democracy

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<sup>1</sup> Vid. *in totum* FORNS I FERNÁNDEZ, María Victòria, “El sistema organizativo y competencial de los servicios sociales locales de la post-crisis en el Estado Español. El caso de Catalunya”, in *A&C: Revista de Direito Administrativo & Constitucional*, vol. 18, no. 74, 2018.

<sup>2</sup> ARIAS ASTRAY, Andrés; GUILLÉN SÁDABA, María Encarnación; PÉREZ MADERA, Darío and MURILLO DE LA CUEVA, Fernando de Lucas, “La definición de los servicios sociales en las leyes de servicios sociales de ‘primera’ y ‘segunda generación’ en España”, in *Portularia: Revista de Trabajo Social*, vol. 4, 2004, p. 517.

and law, define the way in which Spain has been shaped in accordance with the Spanish Constitution of 27 December 1978 (SC) (Article 1.1)<sup>3</sup>.

For this reason, in this paper we will review the organizational system, competence and delivery of social services at local level, with emphasis on Catalonia, understanding that local authorities become the essential unit from which to deploy basic social services, thus responding to universality, proximity and decentralization and contributing to ensuring the welfare state.

## 2 Types of social services: basic and specialized services

### 2.1 Basic and specialized social services in Spain

As indicated above, the legislative structure of the social services was created by Article 148.1.20 of the Spanish Constitution (SC), which comprises 17 autonomous systems to which social assistance competence is assigned. However, Spain does not have a state social services law, which jointly regulates the 17 systems, however, we find some frameworks that try to bring them together and give minimum guarantees, it is important to refer –for being related to local management of social services– to the 1988 Concerted Plan of Basic Social Services Benefits in Local Authorities (CPBSSBLA). The aim was to finance a network of municipal social services to ensure basic benefits for citizens in need.<sup>4</sup> The benefits guaranteed by the scheme were “information and guidance on rights and resources, home help and support for the cohabitation unit, alternative accommodation, prevention and social inclusion in situations of exclusion, as well as cooperation and promotion of solidarity in collaboration with NGOs and social volunteering”.<sup>5</sup>

Therefore, it should be noted that, the overall structure of the 17 systems divides the attention into two levels: 1. Social services aimed at the entire population, which, depending on the Autonomous Community can be called basic, general, primary care or basic and specific benefits, and 2. Social services for specific groups of the population, also called specialized for not being communitarian.

Basic social services (BSS) are closer to citizens, are organized territorially and provide a multi-purpose care, that is, that they attend to the social situations of the general population in a given territory. These services provide information

<sup>3</sup> MARTÍNEZ-ALONSO CAMPS, José Luís, “La Ley de racionalización y sostenibilidad de la Administración Local y su incidencia en los Sistemas Locales de Bienestar”, in *Ciudad y territorio: Estudios territoriales*, no. 188, 2016, pp. 202-203.

<sup>4</sup> GUTIÉRREZ RESA, Antonio, “El Plan Concertado de Prestaciones Básicas de Servicios Sociales en España (Once años del Plan Concertado)”, in *REIS: Revista Española de Investigaciones Sociológicas*, no. 93, 2001, p. 92.

<sup>5</sup> PELEGRÍ VIANA, Xavier, “El modelo de servicios sociales en España”, in *Revista Internacional de Ciencias Sociales y Humanidades, SOCIOTAM*, vol. XVII, no. 2, 2007, p. 135.

and guidance on rights and resources –for individuals, groups and institutions–; prevention and social and family integration are carried out –by persons and groups at risk or marginalized–; Home help is provided by –persons and families suffering from situations requiring it–; accommodation and living arrangements are provided by –persons lacking an appropriate family environment–. They also include specific benefits for –children, young people, the elderly, women, ethnic minorities, passers-by, etc.– and are managed through social service centers and through community centers –reception centers, day centers, occupational centers, etc.<sup>6</sup>

They are characterized by an organization through grass-roots teams made up mainly of professionals in social work and education. The benefits of this level are organized, following the Concerted Plan of Basic Social Services Benefits in Local Authorities (CPBSSBLA) in programs such as: “Program of Social Work for the Provision of Information, Valuation, Guidance and Counselling, Family and Living Together Program for Home Help and Other Support or Alternative Accommodation, Social Integration Program for Different Groups, Participation Program, Associations, Volunteerism and Social Cooperation in the Community Environment.”<sup>7</sup>

The specialized social services (SSS) are organized and managed, are owned by the Autonomous Communities, depending on the population groups to which are directed –children, adults, women, among others–. The specialization is identified with the differences of the users by questions of age, sex and other personal characteristics with presumed social projection. They are organized through interprofessional services linked to the areas of intervention, serving larger territories. The Concerted Plan of Basic Social Services Benefits in Local Authorities (CPBSSBLA) states that the equipment depending on the users can be: specialised treatment services, day services, reception centres, sheltered housing and residential centres for dependants.

## 2.2 Basic and specialized social services in Catalonia

In Catalonia, the 2006 Statutes of Autonomy (SA)<sup>8</sup> guarantees in its Chapter I of the Constitution, the rights and duties of the civil and social sphere, including the rights relating to the SS. As in the rest of the AC, the SS are divided into basic social services (BSS) and special social services (SSS).

Basic social services (BSS) are the basic structure of the social services public system, are the responsibility of local authorities. It is the first level of access to the system for the entire population and its offer is open to all citizens. Its programs and services are aimed at the general population and also at specific groups. It has

<sup>6</sup> GUTIÉRREZ RESA, Antonio, “El Plan Concertado de Prestaciones Básicas...”, *op. cit.*, p. 93.

<sup>7</sup> PELEGRÍ VIANA, Xavier, “El modelo de servicios sociales...”, *op. cit.*, p. 141.

<sup>8</sup> Ley Orgánica 6/2006, de 19 de julio, de reforma de l'Estatut d'Autonomia de Catalunya.

a territorial character, determined by the number of inhabitants and geographical dispersion.

They are services of a decentralized nature and respond to the needs in the environment of coexistence, therefore the municipality is the ideal area of administration for its organization and management of services. Depending on the size or the municipal dispersion, other organizational models are also designed based on lower units, –neighborhoods, counties–, or higher –district associations, regions– depending on whether the municipalities exceed or do not reach 20,000 inhabitants.

Basic social services (BSS) are a fundamental pillar, since their services and services are guaranteed and universal, are the closest gateway to the citizenry and ensure the attention to basic needs. However, basic social services (BSS) have been under pressure from a growing social demand with dwindling resources, critical deficiencies and wide-ranging territorial inequalities in supply, intensifying purely welfare functions and focusing on providing benefits and processing aid. In addition, they are underdeveloped in the face of new social risks and the demands of socially neglected sectors.

The portfolio of social services in Catalonia includes among the provision of basic Social Services (BSS): 1. Basic social care service; 2. Home care service –home help and support and care technologies–; 3. Residential services of limited stay –emergency residential reception and temporary residence for adults in a situation of social exclusion–; 4. Soup kitchen; 5. Technical advice on social care; 6. Non-residential socio-educational intervention for children and adolescents –in an open center– and 7. Women’s Information and Support Service. The financing of basic social services is shared between the municipalities and the Administration of the *Generalitat*, including the social services teams, the programs and projects, the home help service and the other services that are determined as basic. The contribution of the Government of Catalonia is fixed in its general budgets and will never be less than 66% of the cost of basic social services equipment, its programs and projects and of home help and telecare services, in the Strategic Plan and the Portfolio establish for the territorial scope of each basic area of social services.<sup>9</sup>

Special Social Services are organized according to the needs of the different sectors and groups that address, according to their specificities, from centers, services, programs and resources. All this, forms a decentralized network in the different territories, taking into account the social diagnoses and the needs detected. Organized in the form of a network on the territory, they address the principle of decentralization, the characteristics of population centers and the impact of identified

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<sup>9</sup> *Vid.* Article 62.1 and 2 of Act 12/2007 of 11 October on Social Services.

needs. These include technical assessment teams that diagnose needs that can be addressed from a basic social service based on valuation or referral reports that determine access to other system features.

The areas and sectors addressed by the Special Social Services are: 1. Childhood, adolescence and youth; 2. Elderly persons with social dependence or risk; 3. People with disability-related problems; 4. People with social problems arising from mental illness; 5. Persons affected by HIV/AIDS; 6. Family caregivers or other caregivers; 7. Families with social problems and risk of social exclusion; 8. Women in a gender-based violence situation and their children; 9. Victims of crimes with violence or persons at risk of suffering them; and 10. People with drug-related problems. The financing of the special social services is the responsibility of the special social services administration or entity. Each public administration holding the special social services “must decide on the system of provision of services, within the regulatory framework, in accordance with criteria of economy, efficiency and effectiveness”. The *Generalitat* will finance the Special Social Services corresponding to the guaranteed benefits to all the holders of the services accredited within the Network of Social Services of Public Care “according to the modules established by the Social Services Strategic Plan and the Social Services Portfolio”.<sup>10</sup>

### 3 Local social services: competences in the field

#### 3.1 The Spanish local regime

Of the guiding principles in Spain, it is important to highlight the principle of “subsidiarity”, which advocates that it be the entities closest to the problems that respond in the first instance, and only if they are overcome and require it, will higher-level entities come to their aid.<sup>11</sup> That is why, “in the territorial model of the Spanish State, local authorities are the essential unit from where to deploy basic social services,<sup>12</sup> in addition to being part of the Concerted Plan of Basic Social Services Benefits in Local Authorities (CPBSSBLA), whose content drives the implementation and accelerates the growth of the public network of social services to be provided by local authorities.<sup>13</sup>

Thus, we have that the Act 7/1985, of 2 April, regulating the foundations of the local regime incorporates the constitutional principles –such as subsidiarity, already mentioned, and especially those of municipal autonomy and financial sufficiency– and

<sup>10</sup> 63.1 and 63.2 of Act 12/20027 of 11 October on Social Services.

<sup>11</sup> PELEGRÍ VIAÑA, Xavier, “El modelo de servicios sociales...”, *op. cit.*, p. 131.

<sup>12</sup> FORNS I FERNÁNDEZ, María Victòria, “El sistema organizativo y competencial de los servicios sociales locales...”, *op. cit.*, p. 29.

<sup>13</sup> PELEGRÍ VIAÑA, Xavier, “El modelo de servicios sociales...”, *op. cit.*, p. 135.



establishes the legal and institutional framework of the local regime in force in Catalonia and the State, until the approval of the new Statutes of Autonomy (SA).

The Act 7/1985 rather than laying down the common bases for its development by the Autonomous Communities, it practically exhausts the local matter and leaves almost no room for Catalan legislative power, in this case. In fact, the Act 7/1985 “*es caracteritza especialment per la seva extensió i minuciositat, sovint incompatible amb el seu caràcter de llei de Bases*”.<sup>14</sup>

In this sense, articles 25, 26 and 27 Act 7/1985, states an attributive scheme of attributions, as follow:

1. A general attribution clause contained in Article 25.1 Act 7/1985, according to which the municipality shall be able to promote all activities and provide public services which bring about the well-being and satisfaction of the aspirations and needs of neighbors.
2. The material general or sectoral areas, in which the respective Parliaments of the State and the Autonomous Communities have to make effective legislative powers of specific competences. Article 25.2 Act 7/1985 contains a non-exhaustive list of the areas to which municipal autonomy affects, inter alia: safety in public places, traffic management to urban roads, civil protection, fire prevention and extinguishing, urban planning, housing, parks and gardens, paving of urban roads, environmental protection, historic and artistic heritage, street lighting, markets, fairs, consumer protection, water supply, sewerage, waste and waste water treatment, public passenger transport. And, in particular, letter k) which refers to the “provision of social services and social promotion and reintegration”.<sup>15</sup>
3. The minimum services of compulsory provision for municipalities independently or in association according to the number of inhabitants, provided for in article 26.1 Act 7/1985.

Articles 27 and 28 of the Act 7/1985 also empowered municipalities to exercise powers delegated by the State or the Autonomous Communities and to establish complementary competences to the actions of these administrations. However, Article 28 will be repealed by the 2013 local reform.

Under the Act 7/1985 scheme, prior to its reform, municipalities had competence for the provision of social services and social promotion and reintegration,

<sup>14</sup> SABATÉ I VIDAL, Josep Maria and RENYER I ALIMBAU, Jaume, “Els antecedents històrics de l’administració local a Catalunya i marc legal vigent”, in GIFREU I FONT, Judith (coord.), *Introducció al dret local de Catalunya*, Cedecs, Spain, 2002, pp. 30-31.

<sup>15</sup> Act 7/1985, of April 2, Regulating the Bases of the Local Regime, article 25.2.k) in force before the 2013 reform.

which they exercised in accordance with the provisions of State and Autonomous Communities legislation.

However, in 2013, the system of competences of the municipalities was profoundly modified by Act 27/2013, of 27 December, on Rationalization and Sustainability of Local Government. The aim of this reform was to change the local institutional and organizational structure and to affect different aspects of the management and staff of the Government and the administration of local authorities; but, above all, modifies the material areas of local competences with the aim, as stated in the legal text, of simplifying the administration, reducing the number of entities and subjecting them fully to the principles of budgetary stability and financial sustainability. All this, with the objective of clarifying the competency regime, especially the local one, in order to avoid duplication and to make effective the “principle of one Administration, one competence”<sup>16</sup>.

The Rationalization and Sustainability of Local Government Act contains a new system of power sharing through the redefinition and reclassification of municipal powers, primarily and, above all, determines that local authorities can only exercise “powers other than their own” –Article 7.4– or allocated by delegation where there is no duplication of exercise by two or more administrations and where municipal financial sustainability is not put at risk.<sup>17</sup>

This new system of distribution of competences widely challenges the general clause of municipal training, as well as the list of subjects that –in the words of Velasco Caballero– “in any case” the legislator has to recognize the municipalities as “own competences”.<sup>18</sup> With the new wording given to Article 25 of the Act 7/1985, it could be seen that some competences of local authorities are removed and others are reduced, as, for example, with Article 25.2 e) Act 7/1985 where the subject of assistance is reduced “to the assessment and information of situations of social need and the immediate care of persons in situation or risk of social exclusion”. However, as Fuentes i Gasó warns us, “the real reducing operation involving powers that are not owned by the State takes place through the first and second transitional provisions of the Rationalization and Sustainability of Local Government Act”.<sup>19</sup>

<sup>16</sup> FONT I LLOVET, Tomàs and GALÁN GALÁN, Alfredo, “Racionalización y sostenibilidad de la Administración local: ¿es esta la reforma?”, in *Anuario del Gobierno Local*, no. 1, 2012, p. 14-15.

<sup>17</sup> FORCADELL ESTELLER, Xavier, “Aproximación crítica a los principales cambios en la legislación de régimen local como consecuencia de la aprobación de la Ley 27/2013, de 27 de diciembre, de racionalización y sostenibilidad de la Administración Local”, in SANTAMARÍA PASTOR, Juan Alfonso, *La reforma del 2013 del régimen local español*, Fundación Democracia y Gobierno Local, Madrid, 2014, p. 59 y ss.

<sup>18</sup> VELASCO CABALLERO, Francisco, “Duplicidades funcionales de Comunidades Autónomas y entidades locales”, in *Anuario de Derecho Municipal*, no. 5, 2011, 21-23

<sup>19</sup> FUENTES I GASÓ, Josep Ramon, “Consecuencias de la Ley 27/2013 de Racionalización y Sostenibilidad de la Administración Local, en el régimen local de Cataluña”, in *Revista Vasca de Administración Pública*, no. 101, 2015, p. 74.

And in fact, according to the second transitional provision of the Rationalization and Sustainability of Local Government Act, the Autonomous Communities assume the ownership of the competences related to the Social Services, which supposes –in the words of Arenas Viruez– a modification of the power distribution between the Autonomous Communities and the local authorities, transfer of powers from these to the Autonomous Communities.<sup>20</sup> With the Rationalization and Sustainability of Local Government Act, the Autonomous Communities assume the ownership of the municipality’s own competences related to the provision of social services and promotion and social reintegration, whether the exercise of these powers has been carried out by municipalities, provincial councils, equivalent entities or any other local entity.

This situation is reinforced by the fact that, in the new wording given to article 26.1 of the Act 7/1985, some of the so-called “minimum compulsory services” for municipalities are eliminated or reduced; in particular, abolishes the obligation of all municipalities to provide the food and beverage control service –art. 26.1.a) Act 7/1985–, and, in municipalities with more than 20,000 inhabitants, the obligation to provide social services becomes the obligation to “assess and report on situations of social need and immediate care for people in situations or at risk of social exclusion” article 26.1.c) Act 7/1985, which implies a lamination of local competences in social services and a return to care.<sup>21</sup>

Thus, the provision of social services and social promotion and reintegration is no longer a matter for which the municipalities exercise their own powers and is no longer a service to be provided by municipalities with a population of more than 20,000 inhabitants.

However, it should be noted that the Constitutional Court (CC) in 2016 and 2017 issued several judgments that, among other things, clarify the interpretation on the scope of local competences –and therefore the municipal ones– and resolve different appeals of unconstitutionality and of a conflict in defense of the local autonomy against the Rationalization and Sustainability of Local Government Act.<sup>22</sup> In words of Fuentes i Gasó, this constitutional jurisprudence shows that the

<sup>20</sup> ARENAS VIRUEZ, Margarita, “La cuestión competencial en materia de servicios sociales”, in *Temas laborales: Revista andaluza de trabajo y bienestar social*, no. 133, 2016, p. 80.

<sup>21</sup> FORNS I FERNÁNDEZ, María Victória, “El sistema organizativo y competencial de los servicios sociales locales...”, *op. cit.*, p. 55.

<sup>22</sup> STC 41/2016, de 3 de marzo –speaker: Andrés Ollero Tassara–, STC 111/2016, de 9 de junio –speaker: Antonio Narváez Rodríguez–, STC 168/2016, de 6 de octubre –speaker: Juan Antonio Xiol Ríos– and STC 180/2016, de 20 de octubre –speaker: Juan José González Rivas–, STC 44/2017, de 27 de abril –speaker: Fernando Valdés Dal-Ré–; STC 45/2017, de 27 de abril – speaker: Andrés Ollero Tassara–; 54/2017, de 11 de mayo –speaker: Santiago Martínez-Vares García–; 93/2017, de 6 de julio –speaker: Encarnación Roca Trías–; and STC 101/2017, de 20 de julio –speaker: Alfredo Montoya Melgar–. As well as the conflict in defense of local autonomy filed by 2,393 municipalities (STC 107/2017, de 21 de setiembre –speaker: Cándido Conde-Pumpido Tourón–).

“local reform” operated by Rationalization and Sustainability of Local Government Act has been frustrated in its main objectives, above all, in the rearrangement of competences –that from the perspective of the Constitutional Court– cannot lead to a reductionist effect. On the contrary, “the list of subjects over which the municipalities have their own competences, contained in Article 25.2 of the LBRL, is interpreted as *numerus apertus*, so that there is the possibility of attributing to the municipalities by the sectoral legislator of other own competences, beyond those contained in this precept”.<sup>23</sup>

This will also have to revise the provisions of the regional or sectoral legislator to determine the true content and scope of the competence in question, which is that, –as Fuentes i Gasó points out– given the indissolubility between social services and local authorities we should have a competency map that is not determined by who actually exercises competence; but by whom it can best be exercised, with a higher level of quality and satisfaction on the part of the citizens, should “transfer the center of gravity of the competence system from the administration to the citizen, who is the recipient”; which has not been the legislator’s option when approving the Rationalization and Sustainability of Local Government Act.<sup>24</sup>

### 3.2 The Catalonia local regime

The Act 12/2007, of 11 October on Social Services,<sup>25</sup> establishes the ordering of social services with the purpose of making effective the universality of their access. Determines guaranteed rights for all citizens in the field of social welfare and provides for the system of responsibilities of Public Administrations with obligation to provide services, surpassing the previous legislation of 1985, which referred in its preamble to social services as rights of the citizen, but did not incorporate the principle of universality.<sup>26</sup>

With regard to competence in the field of social services, article 27 states that they are competent: the government, the competent department, the decentralized entities, municipalities and supra-municipal local authorities, specifying for each of these levels, the content of their responsibilities.

We note that this distribution of powers between the different public authorities corresponds to one of the guiding principles of the Act 12/2007: the principle of

<sup>23</sup> FUENTES I GASÓ, Josep Ramon, “Sobre el ámbito competencial de los entes locales: La interpretación de la jurisprudencia constitucional de su alcance en materia ambiental”, in *Revista Vasca de Administración Pública*, no. 112, 2018, p. 84.

<sup>24</sup> *Ibidem*, p. 85.

<sup>25</sup> Act 12/2007, of 11 October on social services.

<sup>26</sup> FORNS I FERNÁNDEZ, María Victòria, “Los servicios sociales locales como garantes del Estado del Bienestar en el Estado Español. Análisis del régimen jurídico de la atención a la persona en Cataluña”, in *Revista de Direito Econômico e Socioambiental*, vol. 9, núm. 3, 2018, p. 6.

subsidiarity, which also includes, –as the law states–, proximity and decentralization, always in order to bring services closer to citizens. That is why, –as Bayonne i Romacora states– “*no ha d’estranyar que una part important de la Llei 12/2007 es dediqui a determinar la distribució de competències entre els diferents nivells administratius de Catalunya i ho faci, a més, amb una clara voluntat de donar protagonisme a les administracions locals*”.<sup>27</sup>

Article 28 lays down the powers of the Government, including, inter alia, legislation on social services, approval of general plans and programs for social services, setting priorities and defining the overall social services policy and approving the social services portfolio. With regard to the areas of intervention, he only mentions the coordination and implementation of public policies to combat gender-based violence.

The competences of the Department of Social Rights are determined in Article 29, among which are: 1. Adopt the measures to implement the guidelines of the *Generalitat* on social services, 2. Implement the social services portfolio, collaborate and cooperate with municipalities to implement the social services policies that will be designed by the government, 3. Create and manage centers, services, resources and facilities and specialized social service programs and projects and ensure their quality, 4. Exercise inspection and control over social services, 5. Managing social services benefits, 6. Defining the criteria for their financing and for arranging and purchasing services, and; 7. Seek formulas for joint management of social services under municipal jurisdiction.

With regard to the municipalities, Article 31 states that they have the following powers: 1. To identify the social needs of the territory, 2. Create and manage their own social services or delegates according to the social services portfolio and the strategic plan, 3. Develop action plans, 4. Establish social services centers in the field of basic social services (BSS) and fulfil social services functions, 5. To promote the creation of centers and services corresponding to the specific area of specialized social services and to manage them, in coordination with the Administration of the *Generalitat* and the corresponding supra-municipal local authority, according to the social services portfolio and related strategic plan, 6. Participate in the design of the plans and programs of the *Generalitat* in the field of social services, coordinate local social services and their professional teams, among others.

It should be noted that in Article 31, paragraph 2, the regions are given all the competences in social services in a supplementary way when the municipalities have a population of less than twenty thousand inhabitants.

<sup>27</sup> BAYONA I ROCAMORA, Antoni, “El sistema de serveis socials en la Llei 12/2017”, in AGUADO I CUDOLÀ, Vicenç (coord.), *El sistema de serveis socials a Catalunya: garantir drets, prestar serveis*, Generalitat de Catalunya, Institut d’Estudis Autonòmics, Catalunya, 2008, p. 74.

The powers of the supra-municipal bodies are defined in Article 32 and are: 1. To provide technical, economic and legal support to the managing bodies of the basic areas of social services, 2. To program social services in their territorial scope, 3. Promote and manage the services, benefits and own resources of specialized care; and 4. Promote partnerships and community projects.

However, an analysis of the distribution of competences carried out by the Act 12/2007 reveals a centralist trend, especially in the main functions such as policy design, planning, management, coordination, inspection, although for some issues they are carried out with the participation or collaboration of local authorities.

With regard to the powers in the field of Special Social Services, we can say that they do not have a clear concreteness, thing that has become evident in the review of the articles of the Law, which, in relation to the competence approach, defines the responsibilities of the department responsible for social services; the supra-district that are not sufficiently determined, beyond the promotion and management of benefits and the own resources of social care, to ensure the coverage of the social needs of the population in their territorial scope. As for the municipalities, it reserves to them the promotion of the creation of centers and services corresponding to the specific area of specialized social services, which will have to be managed in coordination with the administration of the *Generalitat* and the corresponding supra-municipal local authorities.

The responsibility and competence to have the specialized social services necessary to guarantee the subjective rights determined by the social services portfolio is in the hands of the government of the *Generalitat*. And –as Vilà i Mancebo states– “*en tractar de l'àmbit territorial de prestació de serveis socials especialitzats sembla corroborar-ho quan assenyala que quan els municipis i comarques de més de 50.000 habitants constitueixen una demarcació territorial, poden gestionar els serveis per delegació de la Generalitat si ho sol·liciten; en els altres casos, la gestió dels serveis correspon a la Generalitat, que per satisfer-la pot recórrer a la gestió delegada, a l'adopció de fórmules de gestió conjunta (art. 35.3) o a la concertació de serveis amb entitats privades acreditades*”.<sup>28</sup>

And finally, the competence for the management of economic benefits corresponding to the specialized social services is attributed to the *Generalitat* and the social emergency benefits of the basic social services to the municipalities, county councils, among others, since they are the holders.

With this, we must conclude that in the Act 12/2007 the competency regime is clearer in relation to the Basic Social Services and more diffuse in relation to

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<sup>28</sup> VILÀ I MANCEBO, Antoni, *Serveis socials: aspectes històrics, institucionals i legislatius*, Editorial UOC, Barcelona, 2011, p. 250.

the Special Social Services, which will depend on the eventualities of the territorial characteristics, the budgetary determinations, and, above all, of political will, rather than of the determination made by the Act 12/2007, which can lead to territorial inequality in the provision of the social services, specifically the specialized ones, despite the fact that the Act 12/2007 states the need to ensure territorial equity.

## 4 Forms of provision of local public social services

The social services are the responsibility of the public authorities, although both the management and the benefit can become mixed, incorporating the social organization to complement the provision where the Public Administration does not reach. This implies that they can be carried out by public and private entities. The latter may be a social initiative –non-profit– or a market-type initiative –generating profit–.

Next, we will review the different forms that, according to the Spanish legal system, can be provided by the social services.

### 4.1 Direct provision

Following López Fernández we can affirm that the Public Administrations can manage the centers, services and establishments of social services directly, through the own staff that integrates the templates and work relations in it.<sup>29</sup>

The direct management of the social services would involve the activity of provision through the ordinary bodies which constitute the administrative bureaucracy.<sup>30</sup> But in addition, the provision of social services can be decentralized through autonomous bodies or public business entities.<sup>31</sup>

Villar Rojas points out that the traditional form used for the provision of the SS is that of centers that maintain the traditional model of public<sup>32</sup> establishment without personality as a special administrative body, with which, the direct management

<sup>29</sup> LÓPEZ FERNÁNDEZ, Francisco Javier, “El papel de las entidades locales en el ámbito de la acción social en España”, in *IUS: revista del Instituto de Ciencias Jurídicas de Puebla*, no. 32, 2013, p. 81.

<sup>30</sup> VILLAR ROJAS, Francisco José, “Formas de gestión de los servicios sociales. En particular, la vinculación de gestores privados al sistema público mediante conciertos y convenios”, in *Documentación Administrativa*, no. 271-272, 2005, p. 397.

<sup>31</sup> An example of this direct management of the social services would be community social service centers.

<sup>32</sup> The author defines a public establishment as an “organizational unit, with or without legal personality, equipped with material, personal and technical means for the performance of an activity in favor of individuals for a specific public purpose, which has a certain degree of managerial autonomy vis-à-vis the competent authority because of the technical and material nature of its activity”. Look at: VILLAR ROJAS, Francisco José, “Responsabilidad en la gestión directa. Especial referencia a las nuevas fórmulas de gestión: fundaciones”, in *DS: Derecho y salud*, vol. 8, no. 1, 2000, p. 2.

of specialized, but not personified, is the most widespread form of organization of social services centers.<sup>33</sup>

## 4.2 Indirect provision

Prior to the promulgation of Act 9/2017, of 8 November, on Public Sector Contracts, the indirect provision of services to persons could be carried out through the various contractual modalities envisaged for the management of public services –concession, interested management, concert and mixed economy company– being the most used, the concert.<sup>34</sup>

With the adoption of the Public Procurement Directives –Directive 2014/23/EU, Concession Contracts Directive and Public Procurement Directive 2014/24/EU– and its transposition through the Act 9/2017, are introduced important modifications in the legal regime on the management of services to people, which, following Darnaculleta i Gardella,<sup>35</sup> are the following:

1. The various contractual arrangements for the management of public services are abolished – concession, management concerned, joint venture and mixed-economy company–.<sup>36</sup> In the Act 9/2017, public services may be provided through the concession of services or the service contract depending on whether or not the operational risk is transferred to the economic operator to the contractor.<sup>37</sup>

2. Several particularities are introduced in the procedure for awarding service contracts to persons, introducing greater flexibility in the criteria for the selection of contractors, enabling the general free competition regime to be adapted and allowing direct award to non-profit organizations.

3. Contracting authorities are encouraged to design a special legal regime that covers all phases of these contracts and takes into account the context in which

<sup>33</sup> VILLAR ROJAS, Francisco José. “Formas de gestión de los servicios sociales...”, *op. cit.*, p. 398.

<sup>34</sup> DARNACULLETA I GARDELLA, Maria Mercè, “Les noves modalitats de gestió de serveis a les persones a la legislació autonòmica de serveis socials: especial referència a l’acció concertada”, in *Revista catalana de dret públic*, no. 62, 2021, p. 39. About this matter can be consulted: VILLAR ROJAS, Francisco José. “Formas de gestión de los servicios sociales...”, *op. cit.*, p. 402. LÓPEZ-VEIGA BREA, Jorge, “La contratación pública de servicios a las personas tras la aprobación de las directivas europeas de cuarta generación. Especial referencia a Galicia”, in GIMENO FELIÚ, José María, *Observatorio de los contratos públicos 2016*, Aranzadi, 2017, p. 449.

<sup>35</sup> DARNACULLETA I GARDELLA, Maria Mercè, “Les noves modalitats de gestió de serveis a les persones...”, *op. cit.*, p. 40.

<sup>36</sup> Act 30/2007, of October 30, on public sector contracts, Article 253.

<sup>37</sup> On this matter can be consulted: HERNÁNDEZ GONZÁLEZ, Francisco, *La nueva concesión de servicios. Estudio del riesgo operacional*, Aranzadi-Thomson Reuters, Navarra, 2018. HERNÁNDEZ GONZÁLEZ, Francisco, “El riesgo operacional en los contratos públicos locales”, in *Anuario de Derecho Municipal 2018*, no. 12, Madrid, 2019, pp. 129-164. HUERGO LORA, Alejandro, “El riesgo operacional en la nueva Ley de Contratos del Sector Público”, in *Documentación Administrativa: Nueva Época*, no. 4, 2017, pp. 31-51. FUENTES I GASÓ, Josep Ramon, “La pervivencia de la gestión indirecta de los servicios públicos locales tras la nueva Ley de Contratos del Sector Público: las sociedades de economía mixta”, in *Cuadernos de Derecho Local*, no. 50, 2019, pp. 14-51.



these services operate. Indeed, the forty-seventh additional provision of the Act 9/2017 allows, the establishment of a particular regulation for concessions and for contracts of services that are aimed at social services, although –in words of Álvarez Fernández– renounces to establish a common regulatory framework for these cases, referring to what the contracting authority deems appropriate in each case.<sup>38</sup>

4. Act 9/2017 allows reserving the award of contracts for social services to certain special subjects. This can be seen in the fourth additional provision of the Act 9/2017 which allows public administrations to set minimum reserve percentages of the right to participate in the procedures for the award of certain contracts or of certain lots of Special Centers for Employment of Social Initiative and regulated insertion companies, provided that the percentage of workers with disabilities or in a situation of social exclusion in these entities or programs is as provided for in their reference regulations and, in any case, at least 30%.

In addition, however, the Forty-eighth Additional Provision of the Act 9/2017 also provides for the possibility of reserving the right to participate in tendering procedures for certain social service contracts, cultural and health some specific organizations, which fulfil all the conditions laid down in the Law, organizations which – for Álvarez Fernández–<sup>39</sup> are not strictly identified with the so-called entities of the third sector of social action, but extend beyond them, including the social economy entities.

5. It has been recognized that public authorities may decide to organize services for individuals on a non-contractual basis. Article 11.6 of the Act 9/2017 excludes the provision of social services by private entities from the objective scope of the public procurement rules “provided that it is carried out without the need to conclude public contracts, inter alia, through the simple financing of those services or the granting of licenses or authorizations to all entities which fulfil the conditions laid down in advance by the contracting authority, without limits or quotas, and which ensure sufficient publicity and comply with the principles of transparency and non-discrimination”.<sup>40</sup>

For Domínguez Martín and Chinchilla Peinado, the provision in Article 11.6 of the Act 9/2017 allows the provision of social services to be carried out through non-contractual arrangements, provided that it is guaranteed all eligible operators or providers can access this scheme, provide the services and, where appropriate, obtain the funding that has been set either from the administration or from the user.<sup>41</sup>

<sup>38</sup> ÁLVAREZ FERNÁNDEZ, Mónica, “El concierto social como fórmula alternativa (y no contractual) para la gestión indirecta de los servicios sociales públicos”, in *Ius et Veritas*, no. 62, 2021, p. 15.

<sup>39</sup> *Ibidem*.

<sup>40</sup> Act 9/2017, of 8 November, on Public Sector Contracts, Article 11.6.

<sup>41</sup> DOMÍNGUEZ MARTÍN, Mónica and CHINCHILLA PEINADO, Juan Antonio, “La acción concertada en la gestión de servicios sanitarios en la Ley 9/2017 de contratos del sector público”, in *DS: Derecho y salud*,

Although –according to Álvarez Fernández– it is not an entirely new mechanism in certain sectors of administrative activity, even in the field of services to people, but in the field of social services, and it has been the fourth-generation directives and the Act 9/2017, which have determined the recent emergence of rules regulating the new social concerts approved by the Autonomous Communities and from which the new legal regime applicable to this mechanism is derived.<sup>42</sup>

However, regarding the new existing regulation *Darnaculleta i Gardella*, raises two important questions that we consider relevant to discuss: 1. Whether the concept of the agreement can continue to be used as a contractual modality for the indirect management of the social services, and; 2. Which are and what are the legal regimes for non-contractual modes of providing services to individuals?<sup>43</sup>

With regard to the first approach, we affirm –following Garrido Juncal– that, from the perspective of European procurement directives, there is nothing to prevent Public Administrations from continuing to use the agreement as a contractual modality, if national, state or autonomous legislation, depending on the jurisdiction regime, so provides.<sup>44</sup>

While the Act 9/2017 repeals the previous agreement regulation, Articles 12.2 and 25.1.2 b) of the Act 9/2017 allow for the existence of special or non-nominated administrative contracts. Thus, nothing would prevent, in principle, the indirect management of services to persons from being articulated through contractual arrangements which, the sectoral, state or regional legislator may establish, however, it is noted that such regulation must respect both the Act 9/2017 and the European Procurement Directives.<sup>45</sup>

On the second point, *Darnaculleta i Gardella* recognizes that the regulatory capacity of the regional legislator is much broader to regulate the way in which non-contractual instruments will be developed for the management of services to people which, by establishing new contractual arrangements, since the European Public Procurement Directives and the Act 9/2017 are not intended to regulate non-contractual arrangements for the provision of services to people.<sup>46</sup>

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vol. 29, no. extra-1, 2019, p. 188. The authors consider that, even when the Act 9/2017 refers only to “social services”, this reference should be understood in a broad sense, including social, health and educational services.

<sup>42</sup> ÁLVAREZ FERNÁNDEZ, Mónica, “El concierto social como fórmula alternativa...”, *op. cit.*, p. 17.

<sup>43</sup> DARNACULLETA I GARDELLA, María Mercè, “Les noves modalitats de gestió de serveis a les persones...”, *op. cit.*, p. 41.

<sup>44</sup> GARRIDO JUNCAL, Andrea, *Los servicios sociales en el siglo XXI: nuevas tipologías y nuevas formas de prestación*, Aranzadi Thomson Reuters, 2020, p. 213.

<sup>45</sup> BERNAL BLAY, Miguel Ángel, “El desarrollo autonómico de la normativa sobre contratos públicos”, in *Revista Aragonesa de Administración Pública*, no. extra 18, 2018, p. 100.

<sup>46</sup> DARNACULLETA I GARDELLA, María Mercè, “Les noves modalitats de gestió de serveis a les persones...”, *op. cit.*, p. 42.

In this regard, we would like to point out that, in the area of the provision of services to individuals, concerted action is a formula for collaboration traditionally used between the Administration and individuals which consists in the approval or accreditation of private entities to enable them to provide services in the regional social services network.

According to Gimeno Feliú, concerted action is an organizational modality that should not be confused with the concert, –since this is a contractual modality– which requires an express legal provision determining the meaning and scope, the services and benefits concerned and their remuneration regime.<sup>47</sup>

In order for the concerted action to respond effectively to a non-contractual mode of service provision to individuals, it is important that it does not include services that qualify as service contracts, which is defined as “those whose object are benefits consisting in the development of an activity or aimed at the achievement of a result other than a work or supply, including those in the successful bidder is obliged to perform the service successively and per unit price” –Article 17 Act 9/2017–.

## 5 The management of social services for people in Catalonia

Fuentes i Gasó affirms that *Generalitat* of Catalonia taking a step forward into the absence of transposition of the Public Procurement Directives by the Spanish State, issued Executive Order 3/2016, of 31 May, of urgent measures in the field of public procurement –Executive Order 3/2016– in which it develops the non-contractual legal regime of social services.<sup>48</sup>

Indeed, the third additional provision of Executive Order 3/2016 regulates non-contractual forms of provision of social services, namely: 1. The social agreement, y 2. The delegated management. The social agreement is defined in the decree as the

<sup>47</sup> GIMENO FELIÚ, José María, “La colaboración público-privada en el ámbito de los servicios sociales y sanitarios dirigidos a las personas. Condicionantes europeos y constitucionales”, in *Revista Aragonesa de Administración Pública*, no. 52, 2018, pp. 32-33. The author points out that the concerted action must meet the requirements set by the CJEU, namely: 1. Voluntary organizations are required not to pursue objectives other than “those of solidarity and budgetary efficiency that underpin it”; 2. Do not receive any benefit from their benefits, regardless of the reimbursement of the variable, fixed and permanent costs necessary to provide them, nor do they provide any benefit to their members; 3. The activities of these associations must strictly respect the requirements imposed on them by national regulations when regulating volunteering or the social economy and determine their specific conditions, 4. There is no provision for the application of such legislation to cover abusive practices by voluntary associations or their members.

It also warns that if these requirements are not observed “the administrative decision would be contrary to the principles of public procurement and the management of health benefits. It could therefore be challenged both before the administrative courts and before the competent competition authorities”, p. 34.

<sup>48</sup> FUENTES I GASÓ, Josep Ramon, “Capítulo VI. El regim jurídic de la provisió de serveis d’atenció a les persones a Catalunya: El concert social després de les directives europees contractació pública”, in FORNS FERNÁNDEZ, María Victòria (ed. lit.), ANLEU HERNÁNDEZ, Claudia María y RODRÍGUEZ BEAS, Marina (coords.), *La protección jurídica de la atención a las personas en materia de servicios sociales. Una perspectiva interdisciplinar*, Atelier, Spain, 2020, p. 214.

provision of social services of the network of social services of public care through third party owners of services and establishments in which services are provided with public financing, access and control.<sup>49</sup> While the delegated management is the provision of social services of the network of social services of public care in establishments owned by the Public Administration, through third parties, under the terms and conditions entrusted to it by the Public Administration that owns the establishment or service.

The aforementioned Fuentes i Gasó warns that the social agreement and the delegated management, are differentiated legal businesses, since, the first one would be the non-contractual equivalent of the concert while the second replaces the concession of services.<sup>50</sup>

Both the social agreement and the delegated management are based on a system of convocation and application, and oblige the holder of the private supplier entity to provide the service under the conditions laid down in the applicable legislation and in the technical specifications forming part of the agreement or delegated management. In order to be able to subscribe to concerts and delegated actions, in accordance with paragraph 6 of the aforementioned third additional provision, entities must have appropriate administrative accreditation of their centers and services and be registered in the Register of entities, services and social service establishments, as well as other specific requirements to be determined by regulation. This requirement is also laid down in Article 70. 1 Social Services Act (Act 12/2007) provides that private initiative entities may be part of the Network of Social Services of Public Care, for which they must be accredited by the competent administration in the field of social services.

In any case, institutions must demonstrate that they have sufficient means and resources to ensure compliance with the conditions laid down for each service, as well as compliance with the rules that are generally or specifically applicable to them, both because of the legal nature of the entity and because of the type of service that is the subject of social agreement or delegated management, without being able to demand any economic remuneration –outside of the applicable legal framework– to users of basic benefits, characteristic of services of the network of public social care services.

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<sup>49</sup> The aforementioned third additional provision goes on to point out: “In the establishment of social concerts for the provision of social services, attention must be paid to the principles of personalized and comprehensive care, personal attachment to the social care environment, personal choice and continuity in care and quality. Therefore, they may be established as requirements, clauses, preference measures or positive discrimination measures, social criteria, quality criteria, experience and proven track record, and others that are determined by regulation”.

<sup>50</sup> FUENTES I GASÓ, Josep Ramon, “Capítulo VI. El regim jurídic de la provisió de serveis...”, *op. cit.*, p. 215.

The formalization of the concerts and the delegated actions will be made by means of an administrative document with the form and the content to be determined by regulation and, finally, regarding the validity, conditions of renewal and extension, paragraph 11 of the third additional provision states that these shall be laid down by regulation, however, warns that once the validity of the social agreement or delegated management is terminated, regardless of its cause, public administrations shall ensure that the rights of users of concerted benefits are not adversely affected by their termination.

## 6 Decree 69/2020, of 14 July: how does the provision of social services impact people?

Finally, we will refer to Decree 69/2020, of July 14, of accreditation, social concert and delegated management in the Network of Social Services of Public Care –Decree 69/2020– through which the government of the *Generalitat* of Catalonia regulates “the system of processing of applications, the validity or the maximum duration, the causes of extinction, the obligations of the entities that provide the service and of the public administrations that have granted the social agreement or delegated management, the submission to administrative law, the number of concerted places or delegated management and other conditions to which social agreements must be submitted and the delegated actions, which must respect the principles of publicity, concurrence, equality and non-discrimination”, thus complying with paragraph 16 of the third additional provision of the Executive Order 3/2016.

In accordance with Article 1, Decree 69/2020 seeks to provide for the legal regime of the provision of Network of Social Services of Public Care through social agreement and delegated management, under which entities can provide services to the population with funding, public access and control. However, from its reading you can see some discrepancies with respect to what is foreseen in the Social Services Act (Act 12/2007) and Executive Order 3/2016, as we will see below:

1. The intention is to regulate in the same instrument, the regime of accreditation previewed in the Act 12/2007 and the regime of the social agreement and the delegated management of the additional third provision of the Executive Order 3/2016. However, as Fuentes i Gasó warns us, both regimes are contradictory.<sup>51</sup>

And is that article 68 of the Act 12/2007 when it regulates private initiative in social services, clearly states that private natural and legal persons have the right to set up social service centers and establishments and to manage such programs

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<sup>51</sup> FUENTES I GASÓ, Josep Ramon, “Capítulo VI. El régimen jurídico de la provisión de servicios...”, *op. cit.*, p. 221.

and benefits. On the contrary, the third additional provision of the Executive Order 3/2016 refers to private social service providers.

With this, it seems that the social agreement and the delegated management are figures that apply only to legal persons who provide social services, which may lead to the conclusion that natural persons may be suppliers of these services through service contracts.<sup>52</sup>

2. The accreditation requirements provided for in Article 8 of Decree 69/2020, for the most part, coincide with those provided for in the procurement regulations, which raises doubts about the non-contractual nature that should characterize the indirect management of social services, as we have commented throughout this work.

3. In this same line we find that Article 13.2 of Decree 69/2020 allows to divide into lots the services that will be provided, through social agreement or delegated management, to promote the participation of small and medium enterprises, which casts doubt on the non-contractual nature of delegated management, given that the concept of “division into lots” is specific to the contractual arrangements provided for in the Public Sector Contracts Act (Act 9/2017).

4. Another “symptom” of the contractual nature to which the figure of the social concert is intended is found in article 14.2 of Decree 69/2020, according to which the criteria of quality and responsibility are not mandatory, so that, in each call will be established, thus forming a system of competition in the allocation of services.<sup>53</sup>

5. Finally, we will refer to the provisions of articles 16 and 17 of Decree 69/2020 that regulate the procedures of direct and emergency provision in a very similar way to what the Public Sector Contracts Act (Act 9/2017) provides, which again suggests that the regulator wanted to give a competitive and contractual vision to the social concert.

Thus, it would appear that Decree 69/2020 seeks to change the nature of the social partnership into a contractual figure, which, as we have indicated, is contrary to the provisions of the European Procurement Directives and the Public Sector Contracts Act (Act 9/2017) –especially the latter– have envisaged the possibility of establishing non-contractual mechanisms for the direct management of social services.

## 7 Conclusions

Throughout this work we have carried out a review of the norms that regulate social services, with emphasis on the local and Catalan regime. We have seen the different policy discrepancies that have arisen around these services, so necessary

<sup>52</sup> *Ibidem*.

<sup>53</sup> FUENTES I GASÓ, Josep Ramon, “Capítulo VI. El regim jurídic de la provisió de serveis...”, *op. cit.*, p. 222.

for people in vulnerable situations, which range from a restriction of local competition with the Act 27/2013, of 27 December, on Rationalization and Sustainability of Local Government that had to be resolved by the Constitutional Court (CC) to what can be considered a modification of the non-contractual nature of the social agreement provided for in the Decree 69/2020.

We must remember that the system of social services is a pillar of the welfare state, hence its provision must be guaranteed under conditions of universality, proximity and decentralization. To achieve this, local authorities play a fundamental role by being the closest to the citizens, in addition to being the ones that bear the greatest burden in relation to the competences assigned to them in the field, especially in Basic Social Services, taking on much of the Special Social Services.

Local authorities and the social services should form a single unit of action to provide an adequate response to the needs of the citizenry, especially in the COVID-19 post-pandemic. This should lead us to think about a rethinking of the legal architecture of Public Administrations and, in particular, of local authorities, where local authorities are given the role they deserve and where it is ensured that the social services lend themselves to the administration closest to the citizen.

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