

The project is supported by



EUROPEAN COMMUNITY
European Regional
Development Fund

INTERREG II C - Programme

PROPERTY DEVELOPMENT AND LAND-USE PLANNING AROUND THE BALTIC SEA

edited by
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Nordregio 2000



POLISH ACADEMY OF SCIENCES,
INSTITUTE OF GEOGRAPHY AND SPATIAL ORGANIZATION



German Academy for Regional Research and
Regional Planning

Nordregio Working Paper 2000:5
ISSN 1403-2511

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Nordic co-operation

takes place among the countries of Denmark, Finland, Iceland, Norway and Sweden, as well as the autonomous territories of the Faroe Islands, Greenland and Åland.

The Nordic Council

is a forum for co-operation between the Nordic parliaments and governments. The Council consists of 87 parliamentarians from the Nordic countries. The Nordic Council takes policy initiatives and monitors Nordic co-operation. Founded in 1952.

The Nordic Council of Ministers

is a forum for co-operation between the Nordic governments. The Nordic Council of Ministers implements Nordic co-operation. The prime ministers have the overall responsibility. Its activities are co-ordinated by the Nordic ministers for co-operation, the Nordic Committee for co-operation and portfolio ministers. Founded in 1971.

Stockholm, Sweden, 2000

Preface

As part of the Interreg IIC project *Baltic Manual*, Nordregio, in co-operation with the German Academy for Regional Planning and Regional Research (ARL) and the Polish Academy of Science, organised a Planners' Forum entitled *Property Development and Land-Use Planning around the Baltic Sea*, held 29 - 30 November, in Stockholm. This Forum, attended by participants from eight countries, was the first of three Planners' Forums within the framework of the *Baltic Manual* project.

The focus of this first Planners' Forum was on the local or municipal level which serves as the base for planning and is of utmost importance for its realisation. Planning at local level is closely connected to new tendencies in property development. Due to increasing pressures from economic considerations and private entrepreneurs, crucial changes have taken place in property development and local land-use planning. In investigating new, informal instruments on the local level, the forum looked at both the feasibility of the various planning approaches and their limits for accomplishing the goals prescribed. Models of spatial planning and development on the various levels of administration were discussed.

A selection from the contributions to the Planners' Forum is presented in this working paper. The two first papers concentrate on the Baltic Sea Regions as such and present, with VASAB and INTERREG, two truly trans-national spatial planning and development approaches. The subsequent contributions describe spatial planning in a number of countries of the Baltic Sea Region, namely Germany, Poland, Sweden, Finland and Latvia. With the case of Latvia as an exception, the chapters on these countries present descriptions of the general structure of the national spatial planning, as well as more practice-oriented articles about property development and land-use planning at the local level.

As the Planners' Forum was a platform for critical discussion of various aspects of spatial planning around the Baltic Sea, the contributions generally consisted of outline descriptions, critical remarks and presentation of practical examples. Unfortunately, it was not possible to publish all contributions to the Planners' Forum in the format of this working paper. Nevertheless, the organisers express their thanks for all contributions and especially for the encouraging welcome addresses and comments during the discussions. Collection and preparation of the articles was done by Kai Böhme (Nordregio), Burkhard Lange (ARL) and Malin Hansen (Nordregio) and linguistic editing was done by Nordregio's editor Keneva Kunz.

Nordregio and ARL
Stockholm and Hannover, April 2000

The Baltic Sea Region



Baltic Manual – Project Information

Trans-national co-operation in the field of spatial planning requires mutual understanding and knowledge of planning practices – within their social, cultural, environmental and economic contexts - as well as knowledge of the respective systems of governance and planning. The aim of the Interreg IIC project *Baltic Manual* is to provide a platform for mutual learning and thus promote development and co-operation in spatial planning and spatial research.

This project is jointly financed by the European Communities (under the Interreg II C – Programme), the German Ministry of Transport, Building and Housing (under the Regional Policy Action Programme for Demonstration Projects of Spatial Planning) and the German Länder Berlin, Brandenburg, Mecklenburg-Vorpommern, Niedersachsen, Schleswig Holstein and Hamburg, the German Academy for Regional Research and Regional Planning (ARL), Nordregio, Nordic Centre for Spatial Development, and the University of Karlskrona/Rönneby. The Polish co-operation partners give important support by means of non-financial assets.

The project *Baltic Manual* consists of two parts, both focused on the Baltic Sea area in its entirety as well as on its regions:

In the first part, work is concentrated on Poland, Germany and Sweden. The objective is to produce a trilingual German-Polish-Swedish planning compendium which will provide an effective foundation for cross-border co-operation in spatial research and spatial planning.

Concurrent to this work is the arrangement of multi-national planners' forums, emphasising the involvement of planners, senior officials and researchers in the field of spatial planning from all around the Baltic Sea. The aim is to consider and set out in the form of comparative analyses – within the framework of application-orientated academic research – the spatial planning systems and administrative structures currently in place in the Baltic Sea Region. It is also intended to critically evaluate their potential to facilitate sustainable spatial development. Within the scope of this project, major differences and similarities in the administrative system and the organisation of spatial planning in various Baltic Sea States will be identified. A total of three planners' forums are planned within the framework of the *Baltic Manual* project. This working paper presents a selection from the contributions to the first of them.

Both the compendium and the planners' forums are developed and elaborated by a trans-national co-operation team consisting of the German Academy for Regional Research and Regional Planning (ARL), Nordregio – Nordic Centre for Spatial Development, the Polish Academy of Science, and the University of Karlskrona/Rönneby, together with the University of Dortmund, the University of Rostock, the Institute of Planning in Developments and Structural Researches (IES), Hannover, the Institute for Regional Development and Structural Planning (IRS), Erkner, and the University of Gdansk, Dept. of Architecture, University of Gdansk, Regional Development Geography Unit and the Instytut Goslodarki Przestrennej Komunalnej, Warsaw.

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**TRANS-NATIONAL
SPATIAL PLANNING
IN THE BALTIC SEA
REGION**

VASAB 2010 - Common Approaches of Different Planning Systems

By Jacek Zaucha¹

Local and regional level in VASAB 2010 co-operation

VASAB 2010 co-operation among ministries responsible for spatial planning in the countries around the Baltic Sea was started in 1992 by Ministerial Conference in Sweden in Karlskrona which decided to prepare a joint strategy of spatial development of the Baltic Sea Region (BSR). The Ministers also established a common programme named VASAB 2010 – *Visions and Strategies around the Baltic Sea* encompassing all BSR countries formerly divided by so called iron curtain. It was the first programme of this nature in the world. A major objective of this co-operation was to redevelop a long-neglected dialogue among all countries bordering the Baltic Sea, including those formerly belonging to the area of the Warsaw Pact, and thus to assist in reviving strong historical linkages within the BSR not only in economic, but in much broader terms.

The strategy had been prepared by the end of 1994 as a joint effort of all BSR countries. It was based on three main values: sustainable development, freedom, and solidarity. The first value can be treated as an overall goal for spatial planning. The two others describe the process of transnational co-operation in the field of spatial planning in the BSR.

The vision has been described by four interdependent components:

1. the system of cities and urban settlements (“pearls”),
2. the interlinking infrastructure networks (“strings”),
3. and selected types of land uses (“patches”) in non-urban areas i.e. areas supporting dynamism and quality of life.
4. They are promoted by “the system”. i.e. planning institutions, rules and procedures.

This strategy not only specified basic principles guiding spatial policies in this region. It also gave a first view, still incomplete and sometimes requiring further discussion, on the directions which spatial structures might favourably follow in the long term. Finally, the strategy recognised the importance of the “system” governing development planning and implementation – legal, institutional, and other “soft” elements of societies’ organisation.

The strategy² was adopted by the Third Conference of Ministers responsible for spatial planning and development in the Baltic Sea Region (Tallinn 1994). Immediately after it was concerted with relevant Baltic actors like Council of the Baltic Sea States (CBSS), Helsinki Commission (HELCOM) and Baltic Sea States Subregional Co-operation (BSSC).

An important feature of VASAB 2010 strategy was the attempt to identify ways how to promote the implementation of the vision. This was further highlighted by a follow-up document “From Vision to Action – Co-operation on Transnational Spatial Planning”³ adopted by the Ministerial Conference in Stockholm in 1996. The Committee for Spatial Development of the Baltic Sea Region (CSD/BSR) composed of national and regional spatial planning officials

¹ University of Gdańsk. Jacek Zaucha is also a deputy secretary of the VASAB 2010.

² entitled “Towards a Framework for Spatial development in the Baltic Sea Region”

³ Zaucha Jacek, Lowendahl Bo, *VASAB 2010 – From Vision to Action Co-operation on Transnational Spatial Planning*, EUREG nr 7/1998,

has been established for promoting the implementation.

The VASAB 2010 work has resulted, for instance, in: better mutual understanding as regards development issues, facilitation of the transition process of former socialist countries by putting at their disposal the experience of “western” partners with respect to development approaches, identification of issues of common concern calling for joint action.

However, one has also to admit that the VASAB 2010 process, at least at the stage of strategy building, was somehow biased towards a top-down approach, giving the national planning level a dominant position. Paradoxically, this could be attributed to the very diverse political and institutional structure (including spatial planning institutions) in the countries around the Baltic Sea. During the discussions on VASAB 2010 strategy, some doubts were even raised as to the significance of building up a strategy for a Region so highly diversified from demographic, economic or cultural point of view. The main question was whether countries with such varied past experiences could strive for the commonly agreed future.

The answer to these challenges of diversity has been to give the VASAB 2010 strategy a visionary character. The VASAB 2010 document is not a master-plan for BSR, and it could be questioned as to whether such a plan would make sense. Actually, VASAB 2010 is a political agenda of what has to be done and a list of priorities for common transnational spatial planning in the BSR⁴. In that respect VASAB 2010 is not so dissimilar to ESDP. The political process requires that important issues needing concerted transnational actions be discussed from the very beginning, even if the issues contradict one another. Whereas the “greens” would view the VASAB strategy only as a plan of development of highways, specialists on transport found it rather difficult to grasp the link between a transport corridor, protection of natural environment and regional development. The VASAB 2010 strategy has been aimed at presenting those most important problems to experts, letting them examine the issues and analyse them in their mutual relationships. The natural order of the process is from policy to analysis. This is why, from its very beginning, VASAB 2010 has striven towards consensus, not being just an expert-based undertaking but one looking for a common denominator for interests and development options of individual Baltic countries.

This is where the strength and weakness of VASAB’s strategy lies. On the one hand, finding a solution to the most dramatic issues (like the surplus of harbour capacities in BSR) has been postponed for a later time. The adopted method of “proactive thinking” consisted in working out a long-term vision (the year 2010) of the targeted state of affairs, without looking to constraints in implementation. A generally correct vision may not give rise to political objections as long as a conflict of interests is not present, or a decision to allocate specific resources to implement it has not been taken. Such a vision, from the very nature of things, may be blamed for being of vague character and leaning heavily on wishful thinking. Its suggestions may not be quite feasible, but they are heading in the desired direction, and the creators of VASAB 2010 are fully aware of this. On the other hand, lack of political friction has secured VASAB 2010 the required political leverage in the form of a conference of ministers meeting periodically and speaking the same voice. And as European experience shows it, spatial planning lacking the necessary political superstructure would not stand a chance of success. It seems then that the VASAB 2010 experience corroborates the view that a general vision, to be worked out in detail during implementation, but enjoying political support is

⁴ Objections concerning incoherence and incompleteness of the VASAB 2010 strategy have been raised frequently. However, since the very beginning it has been assumed in VASAB that it is not the final product - the strategy - that counts, but the process of working it out. As a result, the strategy created had significant gaps and weaknesses but, nevertheless efforts of spatial planners from the whole region were focused on it. It is thanks to the joint work that, among others, a transfer of western know-how in the field of spatial planning to Poland, Lithuania, Latvia and Estonia, and later to Russia has taken place.

better than a comprehensive and detailed vision that does not enjoy it.

The diversity of the BSR has also forced the governmental, and not just regional level to take up and maintain the VASAB 2010 programme. The co-operation in the North Sea area is quite different, with initiative being taken mostly by regional level, and the political motive of the co-operation playing an insignificant role compared to economic ones. However, this slightly top-down VASAB 2010 approach of strategy formulation, fully justified by the existing political and historical circumstances, would not work while entering the implementation period.

The developmental process in the BSR in fact is composed of several developmental actions taking place in concrete municipalities or regions. It is rather difficult to speak about pan-Baltic solutions for spatial development or pan-Baltic patterns to be followed in the whole region. In fact in the majority of cases the pan-Baltic level can only provide a positive atmosphere or framework for solving some Baltic-wide spatial problems through local or regional level actors.

Therefore, in the implementation of VASAB 2010 vision and strategy it was the local and regional level of planning which played a dominant role. Thus the implementation of VASAB 2010 could be compatible with the subsidiarity principle where the national level determines general priorities and directions of development and the local and regional levels and sectoral actors fill them with the substance of particular projects fitting VASAB 2010 broad ideas into the concrete regional or local context. Currently 45 INTERREG IIC projects are going on in the BSR, in principle executed and elaborated by local and regional authorities mainly in the framework of INTERREG II C and PHARE. CSD/BSR and national level of planning restricted their activities to the providing of adequate financial frame (Interreg II C) necessary for project execution and to facilitation of project preparation and elaboration of some project ideas and themes (pilot projects).

This project approach was significantly enhanced by the EU-supported INTERREG IIC programme promoting transnational co-operation in spatial development. As this programme was limited to EU partners, corresponding financing mechanisms were sought through the EU's PHARE and TACIS programmes⁵.

The importance of local and regional level for implementation of VASAB 2010 strategy has been well recognised by CSD/BSR members. When asked recently⁶ to describe their national level spatial development priorities relevant for the BSR context many of them did not list the phenomena (as one could expect) but the concrete regions or even municipalities which they considered essential for development of the BSR or/and given country either as a motors of development or as main bottle necks or areas requiring special attention. Among the first category the Oresund Region is a phenomenon to itself, together with main cities and ports as gateways to a given country i.e. Kaliningrad and St Petersburg as gateways to Russia, Mukran and Rostock as gateways to the EU) and development zones along transport corridors in particular Via Baltica, Karlskrona-Gdynia zone of co-operation and many others (e.g. Via-Baltica, Nordic Triangle, Murmansk Corridor, Mid-Norway corridor). In the category of regions/cities requiring special attention the border regions (for example in Belarus, Lithuania) were quoted frequently, as well as regions affected by radioactive pollution, and Euroregions treated as a tool to address the cross-border disadvantages (i.e. Euroregion Baltic, Niemen Euroregion).

⁵ The solution of combining different EU funding sources turned up to be very inefficient.

⁶ See *Vision and Strategies around the Baltic Sea 2010 Plus. Invitation to common work on the spatial planning and development challenges to Baltic Sea region countries especially to north-western Russia, Belarus, Baltic States and Poland, common strategy and Common Action Plan, Gdańsk September 1999*

VASAB 2010 Plus

The situation of the BSR transnational spatial planning in 1999 differs significantly from that of the early 90s.

First of all, sustainable development has gained still more importance and meaning. It is discussed from different perspective. The existing pan-Baltic fora and co-operation networks have strengthened their sustainable development profile (e.g. HELCOM) and new networks have been created to ensure sustainability in the region (e.g. Baltic 21). Therefore VASAB 2010 has gained some important partners having interest in very similar aims and values.

Secondly, by entering an INTERREG II C projects market regional and local authorities become important stake-holders in the BSR spatial development. Their projects reveal the local and regional priorities for BSR spatial development. If the subsidiarity principle is treated seriously these priorities should be included in the existing vision and strategy of spatial development of the BSR.

Thirdly, new spatial trends and processes have emerged since 1994. The most prominent example is the impact of transition on the urban structure of the BSR, resulting in depopulation of some areas in Germany and the eastern parts of BSR (e.g. St Petersburg region) and in changing transport patterns and transport routes in this part of Europe. Another aspect is the spatial impact of EU enlargement and spreading of EU common policies to the majority of BSR countries. With the integration of some BSR countries into the EU during previous years, and the forthcoming accession of others, expectations for reducing existing regional disparities have grown. At the same time, other questions are becoming more prominent. Strategies need to be defined on how to promote cohesion and collaboration between EU and non-EU regions instead of furthering the spread in living standards.

Fourthly, most BSR countries have meanwhile developed national spatial strategies, with different *foci* according to each individual country's specific needs and conditions. Most of these national visions and strategies specifically consider transnational aspects. But no integrated view exists putting them together to identify priority areas for transnational co-ordination.

Last but not least the ESDP and CEMAT work has also created some new focal points requiring common consideration (at strategic level) by the BSR countries.

All of the above-mentioned brings us to the need for revision of the existing VASAB 2010 vision which is to be done in the framework of the *VASAB 2010 Plus* project. The *VASAB 2010 Plus* aims at updating the existing strategy for spatial development of the Baltic Sea Region and working out major implementation actions and projects. These projects will be carried out in the framework of the forthcoming Community Initiative INTERREG III and other programmes between 2001 and 2006. A new vision, *VASAB 2010 Plus*, will take into consideration the interest and priorities of local and regional level, clarify the future division of labour between different Baltic networks with regard to role of space in sustainable development and attempt to apply CEMAT and ESDP principles to the BSR circumstances.

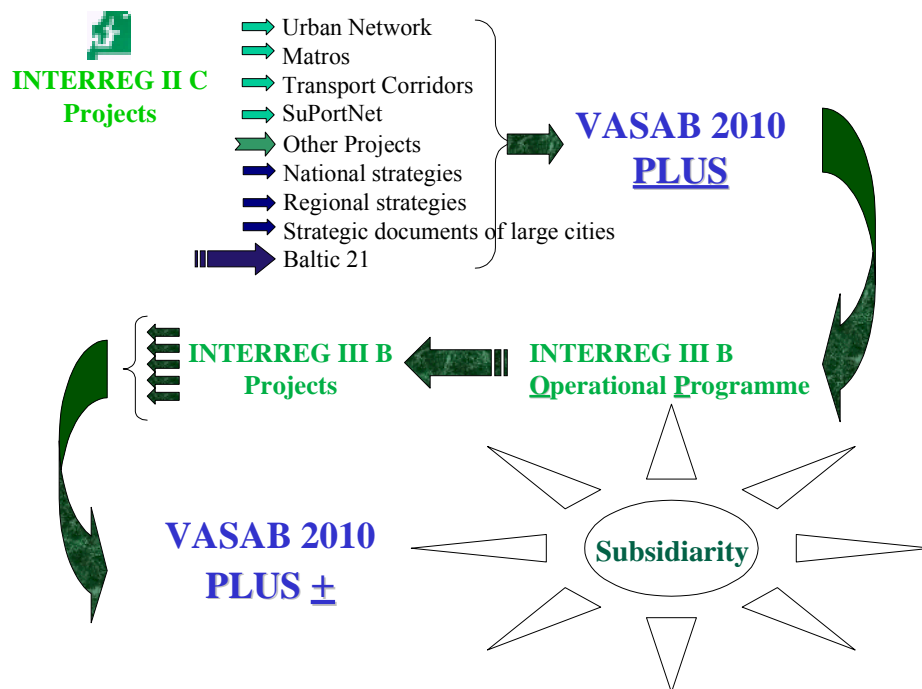


Figure 1. VASAB 2010 approach.

The VASAB 2010 Plus project will be executed in five work packages, each concluded with a workshop or seminar:

- WP.1. – BSR Yesterday, Today and Tomorrow
- WP.2. – Incorporation of Results of VASAB 2010 Flag Projects
- WP.3. – Spatial Impact of Baltic 21, ESDP and Guiding Principles for Spatial Development of European Continent
- WP.4. – Integrating Results of Other Baltic Projects with Focus on INTERREG II C Projects
- WP.5. – Compilation of Policy Document

WP 1

VASAB 2010 Plus starts with an assessment of recent spatial developments in the BSR and expected future trends, in particular:

- dynamics of spatial changes and processes (spatial trends) in the BSR,
- bottle-necks for BSR spatial development calling for INT III solutions and pilot verification of the VASAB 2010 monitoring concept.

It will then prepare an analysis of national spatial planning approaches in the BSR in recent years, based on national strategic documents, planning systems and legislation, including evaluation of past experience.

WP 2

The impact of VASAB 2010 visions, goals and actions for development of the BSR will be evaluated and a summary of VASAB performance from 1994 to 1999 will be discussed (in particular VASAB 2010 impact on spatial planning system development in transition countries). This should lead to the collection of the best practices in the BSR of dealing with transnational multi-sectoral spatial problems. In this work so-called VASAB 2010 “flag projects” will play an important role. Among them the most important are:

1. *BSR Urban Network (and Urban Networking)* – co-financed by INTERREG IIC. An interesting feature of this project is a fundamental study approach combined with a case study to be carried on simultaneously in the Gdańsk metropolitan area. The research-oriented part is aiming at SWOT analysis of the existing urban structure and adding to knowledge about the functionality (performed functions) by the main BSR cities. This project is also conducted in co-operation with Baltic cities, with the aim to prepare an action plan strengthening the competitive position of the region as a whole.
2. *“MATROS” – Maritime Transportation and Spatial Planning* –policy-oriented INTERREG IIC project addressing the question of how spatial planning can enhance sustainable maritime transport in the BSR. The project should be seen as a part of the broader undertaking, Baltic 21.
3. *Transport corridors*. The work is concentrated on the issue of combining the development of transport corridors with sustainable regional development. There were four pilot projects of VASAB 2010 in this field between 1995 and 1998. Now there are several INTERREG IIC projects such as “Via Baltica”, SEBtrans, E18, Translogis, String and many others, elaborated mainly by the regional authorities.
4. *“Supportnet” – Baltic Marina Network*. This INTERREG IIC project is aiming at revitalisation of the economic bases of the South coast of the BSR through enhancing sustainable tourism development.
5. *Sustainable Development of Areas Demanding Special Attention – “Patches”*. The project, co-financed by PHARE, is focusing on “green networks” and “priority areas demanding integrated management”.
6. *Pilot project to implement a spatial monitoring system in the BSR*. The project, co-financed by PHARE, is aiming at preparation of the concept and an action plan for the possible monitoring system in support of the spatial development in the BSR.
7. *Compendium of spatial planning systems and legislation*. Project co-financed by PHARE, aiming at preparation of a handy compendium of spatial planning legislation in different Baltic countries which can be useful for spatial planners either from regional and local or national level in their day-to-day work.

WP 3

VASAB 2010 Plus will review its relationship to other trans-national strategies and policy declarations at the Pan-European level (CEMAT, EU/ ESDP) and at BSR level (BAL TIC21), with a view of clarifying how *VASAB 2010 Plus* can further contribute to the implementation of those other strategies, by means of a concretisation of concepts (e.g.: sustainable development) or of specific action to be taken in the BSR towards the realisation of broader strategies.

Of particular importance in this regard is the Baltic 21 programme which was launched to develop a Baltic strategy of sustainable development based on co-operation of sectoral (agriculture, forestry, fishing, industry, energy, transport and tourism) spatial planning authorities and other actors (NGOs, financial institutions) around the Baltic Sea. *VASAB 2010* has taken part in this initiative from the very beginning, indicating how spatial planning contributes to sustainable development.

VASAB 2010 Plus takes into account the aims and results of activities of different Baltic and European networks, including HELCOM (with the network of the Baltic Sea Protected Areas and the concept of Green Spots), CSD (ESDP), CEMAT, BSSSC, CPMR, the TEN network, as well as the EU Pilot Project on Integrated Coastal Zone Management.

WP 4

An analysis will be prepared of the impact from previous and on-going actions/ projects on spatial development in the BSR with focus on ongoing 45 INTERREG II C as genuine spatial projects of transnational character. Through analysis of those projects first attempt of revealing spatial priorities of BSR municipalities and regions will be undertaken. The goals, interim results and experience from the projects will be discussed, including the need for revising focus and approach of VASAB. This may include the identification of policy areas which require broader coverage within the BSR action programme.

WP 5

At this stage a final document will be compiled by CSD/BSR with broad participation of all Baltic actors having interest to co-operate with VASAB 2010. First Draft of the document will be presented to the CEMAT Ministerial Conference in Hanover in September 2000 just for the information purposes. Afterwards a final drafting will be elaborated through extensive concertation process, including both local and regional authorities, NGOs, business sector and sectoral ministries. This is to ensure operationality and applicability of the future *VASAB 2010 Plus* strategy.

The final *VASAB 2010 Plus* document should provide guidelines for the future projects as to what are the most important spatial priorities in the region shared by all countries. It should propose the priorities of directions of activities, i.e. the so-called measures with a description of required projects that may count on receiving support from the INTERREG IIIB for the BSR. This means that through *VASAB 2010 PLUS* the spatial priorities and interests of the regional authorities could be introduced to the INTERREG IIIB Operational Program laying foundations for new common spatial projects in the region in 2000–2006.

Some international initiatives and bodies will be particularly welcome to join *VASAB 2010 Plus* at the very early stage of elaboration of the document: BALTIC21, HELCOM, Union of Baltic Cities, Baltic Chambers of Commerce Association, lead partners of selected Interreg II C projects. There will be attempts to involve other organisations during the concertation period through mutual information⁷. Ways of their involvement have still to be worked out.

Practical work on *VASAB 2010 Plus* started in September 1999 and it is expected that a draft report for public discussion will be available around September – October 2000.

Implementation of VASAB 2010 Plus in the light of the accession process

A new *VASAB 2010 PLUS* vision and strategy will remain inapplicable unless both EU and non-EU regions can implement it in the framework of common projects. Since spatial planning creates important positive long-run externalities it needs some external funding or co-

⁷ first of all Council of Baltic Sea States (CBSS) as a political umbrella of all BSR co-operation networks, and then CEMAT, BSSSC, Baltic Sea Commission of CPMR, scientific networks, B7 Islands, Nordic council of ministers, North Sea Commission, Baltic Tourism Commission, EU DG XVI + CSD, COR Assembly of European Regions, international NGOs at BSR level, international financial institutes, conference of ministers of transport

financing. If one intends to strengthen BSR cohesion such possibilities should be equal for all BSR subregions regardless their status vis à vis the EU.⁸ Unfortunately, this will hardly be the case in the BSR in the near future.

In analysing the pre-accession instruments proposed to the BSR countries aspiring for accession to the EU it is difficult to resist the impression that the spatial planning has somehow been put aside. These instruments are dominated by a sectoral approach, which is neither integrated nor spatially oriented.

ISPA, which is very favourable for the countries in transition since it allows EU share in co-financing up to the level of 85%, or even, in some circumstances up to 100%, is going to assure the countries in accession as much as EUR 1 billion per annum (i.e. an amount equal to the entire PHARE funding until now). ISPA is based, however, on the experience of the Cohesion Fund. It could have already been seen in the preparatory stage. The transport part has been based on the TINA experience and only projects elaborated within the framework of TINA have the chance of being co-financed from the ISPA in the nearest future. Unfortunately, within the TINA framework spatial planning has not been taken into consideration. In effect, for instance, only one project (concerning Poland, the city of Gdansk) is concerned with the modal split. But even that project is not co-ordinated with the currently realised planistic project Sebtrans of the INTERREG II C setting itself similar aims and tasks from the spatial planning side. Thus the whole VASAB 2010 experience concerning the so-called corridor projects is put aside. An additional problem arises from the fact that the TINA projects as a rule do not cover the network of regional and local roads so important for the sustainable development of the BSR. Besides that the ISPA projects, even when one considers their relatively large value (size)⁹ constitute a barrier for spatial planning, which usually is concerned with soft projects, which are then rather small in size.

The part of the ISPA concerning protection of the natural environment is difficult to assess precisely, since it is relatively less advanced than the transport related section. It can be assumed, however, that funds will be directed towards the elimination of the so-called hot spots. They will be devoted mainly to construction of waste-water (sewage) treatment plants in large urban centres, e.g. in the capital cities. Less emphasis will be put on rural areas. Taking an integrated approach to environmental questions does not seem to interest the ISPA.

SAPARD (EUR 0.5 thousand billion annually) has a decentralised character. Decisions concerning allocation of funds and project selection will remain in the hands of National Committees. Money from the SAPARD will flow to the Ministries of Agriculture and the Ministries will set up special agencies to manage those funds and to finance projects, which will have to respect priorities selected by particular countries. The distribution of co-financing (10% earmarked for the support of rural development and about 90% for the support of agriculture policy) indicates, that SAPARD has also a non-space related character and, perhaps contrary to the intentions of its authors, will most probably be used mainly to support agricultural production and not to solve the problems of rural areas instead, in particular not to provide financial support for development of multifunctional character and economic development in small towns.

The preparation of the accession countries for inclusion in the structural operations of the

⁸ That is why it was a favourable phenomenon that the EU countries assisted those activities in the form of a special budget line to co-finance the PHARE part of INTERREG projects. On the other hand, the fact that co-operation between PHARE and INTERREG II C was extremely incompetently run and uncoordinated had a negative impact on the cohesion of the BSR. Moreover TACIS was reluctant to support participation of Russia even in single INTERREG II C project.

⁹ ISPA is to be restricted to financing projects over EUR 5 million and spatial planning projects are usually not large enough to qualify for ISPA support

EU, including transnational spatial planning is to remain the task of the PHARE programme, which has been increased to the level of EUR 1.5 billion (at 1997 prices) per annum. This solution raises, however, a number of questions resulting following some negative experience of PHARE's co-operation with INTERREG IIC in the BSR. Secondly, PHARE will continue to be managed by the DG IA, which does not seem to sufficiently appreciate the importance of spatial planning. As evidence for this opinion one could point to the 10-month delay in the decision about supporting the PHARE part of the Baltic INTERREGII C projects. In effect a number of projects cannot get off the ground.

Moreover, it is proposed that the financial burden of this preparation (also in the field of spatial planning) should be borne by the *national PHARE*¹⁰. Since spatial planning and development seems to be important mainly for the regional level such an arrangement can lead to lack of PHARE funds being allocated by central governments for supporting regional participation in INTERREG IIIB projects. This is especially likely in countries with a relatively weak regional level.¹¹ It used to be a great advantage of the existing system of INTERREG section of PHARE Baltic Project facilities that regions and cities from different PHARE countries could together approach the common provider of financial support directly. The existing arrangement was far from perfect, especially with regard to its practical functioning and day-to-day operation but the concept a of separate PHARE line for regions and cities seemed to be sound. It was only hoped and proposed to improve the system by making all the PHARE-INTERREG procedures more compatible with standards and procedures of INTERREG IIC¹².

The progress of spatial development in the BSR and the possibilities of implementation of *VASAB 2010 Plus* depend heavily on the speed and extent of opening of EU initiatives and operations for participation of transition countries authorities, enterprises and organisations. Learning by doing usually ensures the best progress. Institutional building provided by PHARE can be an addition to this "mainstream" form of involving accession countries (in particular at regional level) in EU affairs.

It is also very important to have TACIS for implementation of common BSR spatial development strategies and for supporting participation of Russian regions in common transnational projects. It contravenes all political declarations of EU officials that TACIS has not been available for common actions taken in the framework of BSR INTERREG IIC. It will be still worse if it is not available for INTERREG IIIB projects. Unfortunately, our knowledge about TACIS arrangements in the field of transnational spatial planning is still very limited.

Summing up, one should question the EU (conscious or unconscious) priorities of the pre-accession process at regional level. Are there any attempts at empowering regions of the accession countries with regard to EU structural operation? Or perhaps the main concern of EU is to make the newcomers cleaner and more accessible for export of EU goods, services and capital? One could doubt whether the EU Commission intends (through its initiatives) to strengthen spatial competitiveness of the countries in transition so that they could become full-fledged, and not weaker, partners of the integrating Europe.

The intentions of the EU Commission will be revealed through the operation of INTERREG III with PHARE and TACIS. This co-operation seems of key importance for successful completion of pre-accession exercises by the BSR countries and successful implementation of

¹⁰ Mainstream PHARE supports as the rule projects over EUR 2 million which usually exceeds the limits of average spatial planning projects.

¹¹ Moreover Mainstream PHARE has no spatial planning or territorial orientation among its objectives.

¹² In particular VASAB 2010 stressed the need for harmonisation of the evaluation process between PHARE TACIS and INTERREG II C. The philosophy should be one (joint) project, three sources of funding, one management unit, one funding body (authority).

Future of the VASAB 2010 co-operation

The work on *VASAB 2010 Plus* will be completed by the end of 2001. The new strategy will probably guide spatial development of the BSR until a majority of the countries have joined the EU. Following such circumstances the question of the future role of VASAB will need to be discussed. I would like to propose here some options concerning the division of labour between pan-Baltic, national and regional/local level of planning in the BSR.

Traditional economic point of view:

Mainstream economics assumes that the market assures the best form of regulation of human economic activities. Nevertheless, in any serious economic textbook it is pointed out that space seems somehow not to observe those generally adopted rules.

The deficient effectiveness of market (market failure) in regulating space management issues results from several sources.

- Markets do not take account of full costs to future generations of today's decisions concerning non- or hardly-renewable resources like space. In other words, the market does not take into account the preferences of future generations concerning space management since future generations do not take part in the market game and are not able to express their preferences with their spending decisions.
- Markets fail to take sufficient account of the preferences of a number of space users who are not able to express their preferences in direct money-spending decisions because of high transaction costs (costs of organisation indispensable to express those preferences). In effect, the market pays too much attention to the so-called commercial use of space, while its other functions, concerning, e.g. public transport, landscape values, etc. are less strongly taken into account.
- Market failure is a result of incomplete property rights. "Since human societies have less developed private and communal property rights over resources like land, air, space and water than over goods, both positive and negative externalities can arise".¹³ Negative externalities promote such forms of spatial management, where costs incurred by the society tend to exceed the benefits drawn therefrom. Some costs are not internalised in the "price" of space. Positive externalities, on the other hand, result in a situation, where benefits for society exceeding costs are not applied.¹⁴

In view of the market failure in relation to spatial management the need for some other, non-market form of regulation emerges. In such a situation the concept of public choice, i.e. democratic regulation is applied – in our case in the form of spatial planning. The aggregation of individual preferences into collective preferences concerning spatial management is made in the process of representative democracy, sometimes complemented at the local level with some forms of direct democracy (referendum and the like).

The traditional role of spatial planning is expressed in the form of reservation of space for

¹³ Philip Hardwick, Bahadur Khan, John Langmead, *An Introduction to Modern Economics*, Longman, London and New York 1994 p. 216

¹⁴ From our Baltic area we may quote the dilemmas of the countries in transition concerning the management of the ecological valours. The Green Lungs of Europe – a huge forest area extending from Poland to Estonia creates positive externalities beneficial for the whole continent. The owners of those resources, however, are not able to make profits from the benefits received by other countries so that in their economic decisions they do not take into account those external benefits that cannot be converted into the price of those resources. The EU member countries are not eager to fully pay for the use of the natural environment of the countries in transition.

*aims and tasks that would not be accomplished as a result of playing a pure market game, where social benefits exceed social costs. It is then exerting an influence on the supply of a resource – in our case – the space.*¹⁵

Spatial planning as a process

The post-industrial development paradigm which puts stress on the qualitative factors, and not only on the quantitative ones¹⁶ underlines the importance of the planning process. The concept of sustainable development is an example of this change.¹⁷ Sustainable development requires a different perception of the functions of space; in particular, it increases the importance of solving conflicts between short-term development aims (satisfaction of the needs of the lower order) and long-term aims (development, satisfaction of needs of a higher order). The market is not able to resolve this dilemma, which is why particularly in the highly developed nations the need for spatial planning has been gaining in strength and at the same time to a growing extent assuming an international dimension.¹⁸

Many planners are even of an extreme opinion that spatial planning actually consists in drawing towards one negotiation table all spatial stake-holders and encouraging them to cooperate. Such a scheme of ideal co-operation is shown e.g. in Fig 7 in the ESDP¹⁹, which indicates the need for horizontal and vertical co-ordination of the decision making process concerning space management. ***Planning is then a kind of a learning process, in which particular actors of the space game modify their decisions under the influence of interaction of other actors of the same game.***

The participation of all interested parties in that process from the very beginning contributes to the improvement of the partners' knowledge, and strengthens their mutual connections and information links. This can be treated as an upgrading of the qualitative developmental resources due to the planning process. Also such participation facilitates the implementation phase of decisions undertaken this way, since parties involved in the planning process more readily take part in the realisation of voluntarily undertaken commitments, having co-authored those decisions (benefits of the so-called participatory approach).

In extreme cases the emphasis put on spatial planning as a process may, however, lead to neglect of the role of spatial planning in setting up long-term visions and aims. It means that planners resign from playing the role of arbitrators between the short- and long-term goals, getting involved mainly in the planning engineering tasks – setting up a system of mutual

¹⁵ A separate issue is the question whether that regulation is more or less effective than the market. This dispute seems to be insoluble. Information asymmetry related with planistic regulation, the principal-agent dilemma, imposition of political preferences (of the agent, i.e. the government) on the preferences of a given community (the principal) result in a situation, when even within the framework of planistic regulations some projects may be realised where total costs exceed the total benefits even in the long run. Extreme examples of such projects are supplied by the recent history of the USSR in the form of changing the direction of the river flows, nevertheless even in the EU countries some motorways leading to nowhere have also been built.

¹⁶ Hausner, Jerzy (1994): Postfordowski paradygmat rozwoju "Gospodarka Narodowa" 4

¹⁷ That is a development, which not only concentrates itself on the economic dimension (GDP per capita) but also considers the ecological, cultural and social issues with equal attention. On the meaning of sustainable development please see: Zaucha, J, *Sustainable development for the regional policy*, in Toczyski w (ed.) "Competition and co-operation of the Baltic Regions of Denmark, Germany and Poland, Sopot 1998

¹⁸ More on that subject see Jacek Zaucha "Sustainable development for regional Policy" in : Witold Toczyski (ed.) *Competition and co-operation of the Baltic Regions of Denmark, Germany and Poland*, Government Centre for Strategic Studies, Sopot 1998

¹⁹ European Commission, *European Spatial Development Perspective*, , Potsdam, 10/11 May 1999, p.36

reconciliation of aims and activities among various parties. Thus the forecasts of long-term trends of spatial development, knowledge about spatial processes and their conditions become useless. Planning loses then its active, creative dimension, it ceases to exert influence on the final effect of the planning process. It ceases to be the custodian of “spatial orderliness” becoming the custodian of “political correctness” of the planning process as such. The planners’ set of instruments becomes more transparent and “more neutral” in the political sphere, but also more passive at least from the long-term point of view. The complicated fate of the ESPON may serve here as a case in point.

Spatial sub-optimisation – an integrated approach.

Approaching spatial policy through optimisation of spatial management from the point of view of sustainable development means treating space in a dynamic way. *In a dynamic perspective space links together various human activities and assures their mutual interactions. Space becomes a system of combined impacts, a system of economic, social, cultural and political processes.* Space perceived from that perspective constitutes an important resource determining socio-economic competitiveness of countries and regions (the “productive aspect of space”).

Such an approach, derived from the idea of Integrated Coastal Management (ICM), allows perception of mutual relationships and feedback loops of seemingly distant and unrelated undertakings. The common denominator here is the space in which all human activities take place and interact; what is very important is that the approach has a cross-sectoral character²⁰. In this way spatial planning starts to resemble regional planning (programming) and it seems that the ESDP inseparably connects one with the other.²¹

The emergence of a dynamic and integrated approach is related to changes in emphasis concerning the role of spatial planning. Space management according to the traditional approach served to resolve conflicts between different functions of space, different human needs concerning the use of space – most often between the economic and ecological functions as well as to co-ordinate cross-border development of large structures. Traditional spatial planning was supposed to assure suitable supply of space for priority human activities²². According to Peter Burbridge, “...economic planning and management systems are designed to manage human activities”, which is not the same as “sustaining the flows of renewable resources through maintenance of the functional integrity of natural systems”.²³

²⁰ On such background we may e.g. consider, how the spatial arrangement of post-socialist towns in the form of ugly shoe-box like apartment blocks of concrete and lack of recreational areas influences the quality of human capital in those cities, which influences the economic growth, existence or gradual disappearance of social conflicts and the increase in accessibility of other forms of spatial management.

²¹ European Commission, European Spatial Development Perspective, Potsdam, 10/11 May 1999, pp. 7-10

²² The approach of this kind is represented by VASAB 2010 in the form of division into “pearls”, “strings” and “patches”.

²³ Peter Burbridge “Green Spots Coastal Planning and Management – an International Perspective” in: Baltic Sea Region, “Green Spots” areas of high ecological importance with possible conflicts among spatial development functions, post seminar report, VASAB 2010 Secretariat, Gdansk, May 1999 p. 14

The key distinction of the new approach is the “functional integrity” of space determining the quality of space as a resource. Space should be treated as a productive resource, the proper maintenance of which, i.e. its functional integrity according to Burbridge serves for better satisfaction of human needs. Part of that functional integrity involves, of course, the natural, economic and social processes.

The new approach means that the stress in spatial planning is no longer placed, as was the case in the past, on “zoning”, assuring indispensable areas of free space, but on the sufficient supply of space as a resource and on the assurance of its renewability. This role is left to the land-use planning or physical planning. In the new approach stress is put on the quality of space and on spatial processes. *In this approach spatial planning aims at answering what spatial compositions and organisation (what compositions of settlement structure, mobility infrastructure, green areas, what composition of different functions in the space of the region) are able to strengthen the competitiveness of region or country, support and/or inhibit regional innovativeness.*²⁴

One of the more important aspects of space as a resource that organises other productive resources is the question of spatial innovativeness. Innovations are generally regarded as one of the primary factors that assure development.

Zbigniew J Kaminski writes about spatial conditions of competitiveness, enumerating them, however, in a rather conventional way:

- location of urban agglomerations in relation to the European growth centres,
- the level and dynamics of development of large urban centres,
- the ability to generate polarised development, including the one resulting from the strength of links of the centre with its environment and synergetic effects.”²⁵

Traditionally it is assumed, however, that there is no relationship between innovation and space, because innovations are created and tested in suitable scientific research institutes and business companies, the level and quality of which depend mainly on the size of financial outlays and the quality of human capital (system of education). In practice, however, innovativeness is determined by a number of other factors such as an industry’s ability to absorb innovations in the form of existence of various firms and government agencies playing the role of intermediaries (serving as an interface) between science and business. The spatial distribution of those interfaces, research institutions and business entities, as well as the frequency and quality of interactions with industry and the research sphere, can determine the level of innovativeness of a country or of a region. The communications infrastructure (mobility network) may also play an important role. Recent research studies demonstrate, however, that an increase in the level of regional competitiveness depends also to a growing extent on the way of solving problems such as water supply, assurance of high quality natural environment and recreational space. The aspirations of a region’s inhabitants may be determined by their perception of the phenomenon of peripherality. Thus the evolving spatial organisation, starting from the traditional perception of the settlement network, mobility network, network of patches, spatial location aspects of human capital, mutual interrelations and geographic proximity of science and industry play an important role in assuring the innovativeness of a given region or country. The issue here is to stress that organisation and functioning of space may favour or inhibit the creation and implementation of innovations. In this

²⁴ Cf. Witold Toczyski, Competition and co-operation – two elements of the development of Baltic Europe, in: Witold Toczyski (ed.) Competition and co-operation of the Baltic Regions of Denmark, Germany and Poland, Government Centre for Strategic Studies, Sopot 1998

²⁵ Zbigniew J. Kaminski, Konkurencyjność przestrzeni, Region 1, January 1999

case the question is not only the availability of space but its arrangement and the functional relations between various spatial stakeholders.

Among nine features that characterise innovations J. Guinet mentions, as the third criterion, the fact that innovation is localised.²⁶ It means that “creation and transmission of innovation takes place in a concrete space. Thus it has a specific form of localised informational external benefits. ... Transfer of innovation is not possible unless in another place in space exists another organised innovation arrangement. Under condition of absence of adequate territorial innovation arrangement a ‘one-off’ technology transfer is only possible, or, at most, an insular development within a region.”²⁷

“Some observers suggest, that /.../ complicated systems of technology, production and organisation of industry and support infrastructures of social and political investments are very often characterised with distinct spatial features. Putting stress on the relationship between geographical proximity and technological dynamism finds its roots in the newest insight into the essence of the innovation process”.²⁸

Spatial planning based on an integrated approach requires not only theoretical knowledge about spatial processes and spatial integrity, it also requires strict observation of the rules of the subsidiarity principle and the participation principle. Space integrates different human activities and spatial planning should learn to study, predict and programme the spatial impacts of those activities. Here one should repeat the considerations on spatial planning as a process, understood, however, first of all as a process of (sub)optimisation, i.e. process that incites spatial changes to go in the required direction, that is leading towards a sustainable development.

Division of labour

Spatial planning in its traditional form of reservation of space for so-called public aims and tasks, (land uses which, despite the fact that social benefits exceed social costs, would not be accomplished under purely market conditions) is mainly exercised by the local and/or regional level of planning (in very few cases by national authorities) and seldom requires transnational co-operation.

The conception of planning as a kind of a learning process, in which particular spatial actors modify their decisions under the influence of interaction with other actors in the same game, can sometimes be applicable to the pan-Baltic level of planning. That transnational level results from the trans-border character of the concept of “sustainable development”, which cannot be accomplished as a result of the efforts of a limited number of countries or regions, since pollution, for example, does not respect borders. Similar tendencies can be observed as far as cultural processes are concerned, leading to convergence of needs, the adoption of aspiration targets from neighbours, etc. However, there are only a few spatial issues that really need international solutions and dialogue at international level. Most evident among them are: coastal zone management; planning for water supply and flood prevention; mobility

²⁶ J Guinet “National Systems for Financing Innovation”, OECD, Paris 1995, p.21

²⁷ Tadeusz Markowski, “Wspieranie wzrostu konkurencyjności w polityce rozwoju regionalnego” in: Strategiczne wyzwania dla polityki rozwoju regionalnego, Warszawa, Friedrich Ebert Stiftung, 1996

²⁸ D.A. Wolfe, M.S. Gertler, “The Regional Innovation System in Ontario”, quoted after Antoni Kuklinski, “Regionalne Systemy Innowacji W Polsce, doświadczenia i perspektywy w: Regionalne i Lokalne Uwarunkowania i Czynniki Restrukturyzacji Gospodarki Polski, Wzrost Konkurencyjności Regionów, Łódź, 1996

networks, including pan-Baltic transport corridors; short-distance ocean shipping; and regional transport infrastructure in border regions. Other spatial issues in the BSR have only minor international dimensions requiring mainly exchange of experiences.

The most evident role for transnational spatial planning seems to be with regard to sub-optimisation of the quality of the Baltic space. This means viewing the Baltic Region as a whole from the perspective of its cohesion and competitive position. In this approach spatial planning aims at answering questions as to what spatial compositions and organisation (what compositions of settlement structure, mobility infrastructure, green areas, what composition of different functions in the space of the region) are able to strengthen the competitiveness of region or country, support and/or inhibit regional innovations.

In other words, to answering the question of what changes in the settlement structure, “patches” or mobility network in one country can be beneficial for the whole region, for the other Baltic countries. These questions of transnational externalities seen from an integrated pan-Baltic perspective are important for transnational level of planning. To give an example one can ask how the Belarusian forests and wetlands benefit the whole of Europe. Should the other countries compensate Belarus for these benefits? If not, will the degradation of these assets continue?

I do believe that the future of VASAB 2010 is to deal with pan-Baltic externalities in an integrated manner. Which externalities are important for the BSR as a whole can be revealed only through a public choice mechanism which CSD/BSR is essential part of it. This may also help in maintaining the diversity of the BSR, since it will prevent uniformisation of the developmental paths of the BSR countries.

Conclusions:

1. The response offered to BSR diversity with regard to political, social, economic and administrative structure and historical experience was a vision-oriented, fairly general and not very precise strategy for the spatial development of the BSR, adopted in 1994 by Baltic Ministers responsible for spatial planning and development.
2. Actually, VASAB 2010 strategy is a political agenda of what has to be done and a list of priorities for common transnational spatial planning in the BSR, rather than a master-plan for BSR with fully elaborated action plans.
3. It has been assumed that a VASAB 2010 general vision would be worked out in detail during implementation through local, regional and sectoral stake-holders. This has been actually achieved (realised) within the framework of INTERREG IIC, and PHARE projects. Also, pan-Baltic co-operation networks, like Baltic 21 or Helcom (ICZM pilot projects), have contributed to implementation and concretisation of the VASAB 2010 strategy.
4. Active dialogue on spatial development of the BSR between VASAB 2010 (Committee on Spatial Development in the BSR) and other Baltic spatial stake holders made it necessary to broaden and upgrade the existing strategy. This has been started under the project VASAB 2010 Plus.
5. However, the possibilities and prospects of implementation of the upgraded strategy VASAB 2010 Plus so far seem threatened by lack of co-ordination between different EU financial instruments. A new VASAB 2010 Plus vision and strategy will remain inapplicable unless both EU and non-EU regions can implement it through common projects. Since spatial planning creates important positive long-term externalities it needs some external funding or co-financing. If one intends to strengthen BSR cohesion such possibilities should be equal for all BSR subregions regardless of their status vis à vis the EU. However, the division between EU and non-EU countries, in the field of transnational spatial

planning, will probably deepen in the future due to the lack of territorial orientation of the majority of pre-accession documents. The EU attitude towards pre-accession seems to be rather technocratic with little emphasis on empowerment of regional level in the accessing countries. Therefore, the local and regional level in the non-EU Baltic countries may lag behind the EU regions in implementation of common BSR strategy of spatial development in the future.

6. When Poland, Estonia, Latvia and Lithuania join EU the VASAB 2010 focus will no longer be (as it is now) on “reviving strong historical linkages within the BSR not only in economic, but in much broader terms”. It seems that VASAB 2010 can continue while focusing on transnational externalities in the BSR and through that enhancing spatial cohesion and competitive position of the BSR.
7. This task can hardly be assigned to the local, regional and sectoral actors since they seldom examine the impact of their activities on long-term development of the BSR. Therefore VASAB 2010 as a strategic think-tank should continue to focus on structural changes and an integrated approach to BSR spatial development (the spatial synergy of different local, regional national and sectoral actions).

Baltic Sea Region Interreg II C Programme

by Bo Löwendahl¹

EU initiative and adoption of the Programme

The Interreg II C Programme for the Baltic Sea Region was adopted by the European Commission in December 1997. The Baltic Sea Region is one of seven European co-operation areas covered by the “Community Initiative INTERREG II C”.

The European Union launched this innovative programme, designed to provide co-financing to trans-national projects on spatial planning, with the aim of fostering trans-national co-operation in the area of common territorial planning and development. The programme was based on a well-established tradition of co-operation in spatial planning around the Baltic Sea. By adopting “Visions and Strategies around the Baltic Sea 2010 (VASAB 2010)” in 1994, the ministers responsible for spatial planning in the Baltic Sea States had approved the first common spatial development concept for a European co-operation area. At European level, for the first time, a common “European Spatial Development Perspective – ESDP” was adopted in May 1999 by the EU Member States. Any future EU programme on spatial development will be closely linked to the ESDP concept.

Co-operation partner countries from the EU Member States are Denmark, Finland, Germany and Sweden. Belarus, Estonia, Latvia, Lithuania, Norway, Poland and Russia are non-Member State co-operation partners.

The main aims of the present programme are:

- strengthening the development potential of the Baltic Sea Region;
- increasing economic and social cohesion;
- ensuring sustainable development for the region as a whole;
- promoting territorial balance by supporting weak points and building on strong points.

The assistance programme *Interreg II C Community Initiative* is financed by the Regional Development Fund (ERDF). The total costs for the BSR are EUR 47.508 million. The ERDF contributes EUR 24.962 million. The duration of the Interreg II C Baltic Sea Programme is 1997 – 2001.

For the first time, a common financing pool was established. To co-finance project partners from EU Member States, the EU contributed with some 25 million EUR (MEUR) from the European Regional Development Fund (ERDF). Norway contributes with 2 MEUR from own national funds. Interreg II C funding is matched with a minimum of 50% co-financing from national public authorities. For Central and Eastern European Countries (CEEC), project partners had the opportunity to apply for co-financing funds from the EU PHARE and TACIS Programmes. However, the demand for funding from CEEC partners turned out to be much higher than the PHARE and TACIS funds that were available. For future programmes, it will be important to identify new funding sources to support more effectively the participation of Central and East European partners in trans-national Baltic Sea co-operation.

To administer this programme, the four EU Member States established a new decentralised common management structure. There is a joint Monitoring Committee responsible for overseeing EU-regulations. A joint Steering Committee was set up, in charge of financial deci-

¹ Interreg II C common Secretariat, Branch office in Karlskrona.

sions and allocating funds to projects. Both Committees are assisted by a Common Secretariat responsible for the day to day management of the programme. The Common Secretariat employs an international staff, and its main office is located in Rostock, Germany, with a Branch Office in Karlskrona, Sweden. The Investitionsbank Schleswig–Holstein has been commissioned to administer the EU funds as joint financial body.

Interreg II C priorities in the BSR

In order to select projects which will contribute to achieving the main goals of the programme, priorities have been identified and, as a second step, transformed into more concrete measures. Each project applying for funding has to fit under one of these measures.

Priority 1: Promotion of sustainable spatial development measures in the Baltic Sea Region

Measure 1.1 Promoting a Baltic urban system and a balanced settlement structure

Projects under this measure are aimed at developing co-operation in *urban networks* in order to strengthen international competitiveness, promote sustainable development, increase economic and social cohesion, and promote co-operation through economic growth, increased trade, specialisation and marketing, and safeguarding the cultural and natural heritage. *Urban thematic co-operation* will promote exchange of experience between cities on common potentials, problems and management experience contributing to economic development and welfare. *Rural-urban partnership* is intended to reduce conflicts arising from isolated development policy such as urban sprawl, increase of traffic and environmental pollution, as well as to strengthen synergy effects by common management and networking.

Measure 1.2 Improving communications and promoting energy solutions as part of sustainable regional development

Projects under this measure are aimed at supporting effective and environmentally sound trans-national co-operation, promoting interactions between urban and rural areas and improving accessibility of peripheral areas. They may combine the development of transport corridors with sustainable spatial/regional development, promote the development of hinterlands of ports, contribute to development of structurally weaker regions by forms of telecommunication and adapt energy and transport solutions to specific regional conditions.

Measure 1.3 Promoting integrated management and sustainable development of coastal zones, islands and other specific areas

Projects under this measure are aimed at promoting economic and social development, ensuring appropriate living conditions for the residents. They should contribute to a dynamic balance of the coastal zone, islands and specific areas by promoting biological and cultural diversity and encouraging wise management of the natural and cultural heritage. Another important objective is to contribute to the restoration, development and protection of larger islands and the archipelagos, to improvement of communication services and sustainable exploitation of the great potential for development of tourism based on natural and cultural assets. Specific areas to be dealt with are cross-border areas, lake-lands, wetlands, mountainous areas, rural and forest areas, nature protection areas, specific cultural landscapes, water ways, former military sites.

Priority 2: Promotion of a spatial development approach in the BSR

Measure 2.1 Further development of spatial planning strategies and exchange of experience in the field of spatial planning

Projects under this measure are aimed at the elaboration of a synopsis of spatial planning systems of the Baltic Sea States, development of spatial development strategies, and adaptation of spatial planning methods, procedures, legislation and education. They may carry out multi-lateral workshops and seminars on spatial/ regional planning, create networks of regions, municipalities and institutions concerning spatial planning activities and contribute to preparing appropriate investment for regional development.

Measure 2.2 Management of spatial planning, in particular, of natural and cultural heritage and tourism development

Projects under this measure are aimed at developing integrated concepts and marketing strategies for sustainable tourism in the BSR as a whole and in specific, selected regions, building on historical features. They may initiate pilot projects combining regional and environmental impact assessment, and classify specific cultural and natural landscapes with regard to nature protection and economic activities e.g. tourism. This measure also includes spatial planning contributions to Baltic Agenda 21, creating and developing networks of scientists and experts to exchange information, and knowledge and promote understanding of spatial planning in the fields of tourism, nature protection and economic management of cultural landscapes.

Trans-national spatial planning projects

After three application rounds a total of 45 projects out of 120 applications (76 project ideas) have been approved to receive financing from BSR Interreg II C programme. The total sum of ERDF funds committed after these three application rounds plus an extra application round for projects already approved is approx. EUR 25 million, or approx. 99% of the total budget available. As of early autumn 1999 most of these projects have begun or are just beginning their activities.

An Interim Evaluation Report has been carried out by Bradley Dunbar Associates after two application rounds. The report has been adopted by the Monitoring committee at its meeting in Copenhagen on 19 November 1999. From that report we can extract the following analyses of the project implementation progress:

“The projects submitted under the Programme all comply with the formal objectives and measure structure of the Programme. However, the nature of spatial planning, and the interrelationships between different parts of the Programme, mean that many projects could often be categorised under different measures. In this context, it is useful to provide a brief overview of the projects by type and direction to provide an awareness of the content of financed projects.

Transport is one of the most common issues addressed in the first and second round projects, featuring in at least ten of the 38 approved projects. Specific modes of transport are considered in several projects including traffic infrastructure for passenger and freight transport (TransLogis, BALTICOM) or road systems (E18), air transport and airport/airline cooperation (Seabird), inland shipping and waterways (INLATRANS), and the marine transportation system, ports and port hinterlands (MATROS). Other projects focus on the wider, integrated transport system of the region (SEBTrans) or include transport as part of a wider cooperation initiative (Via Baltica, Baltic Bridge).

Two other themes appear relatively often among the approved projects. The first is *tourism*, which features significantly in at least eight projects. Many examine tourism in the context of sustainable development as well as the need to create better co-operation and co-ordination structures in the Baltic Sea area or between given partners (High Quality Tourism, BEST, Bothnian Arc-Tourism). Some projects focus on particular types of tourism e.g. cultural assets (HOLM, Balder) although still emphasising the importance of networking and overall quality management. One project (Disadvantaged rural areas) has a greater geographical specificity, examining the contribution of spatial development in disadvantaged rural areas through tourism.

A further, relatively common theme is *information systems*. Projects with this focus range from the creation of region-wide data and GIS planning tools (MapBSR, PSSD) to a networked regional database for land use and transport (Network).

Other projects, which are less common in the range of approved projects, include *energy* and *urban development/urban networking*. The Baltic Clearing House project has the increase of energy efficiency as a sub-objective of the overall project. In the urban field, projects look both at urban development (e.g. Neighbour, analysing the spread effects of urban areas on their neighbouring regions; and IUPM, which looks at urban management, renewal and participatory planning), as well as urban networking (e.g. Metropolitan Areas, which aims to create co-operation and networking between cities and capital regions).

Spatial co-operation, regional networking and sustainable development appear more as thematic focus through a large number of the approved projects. Given the nature and purpose of the Programme, it is not surprising that these emerge as cross cutting themes. These focus are often mentioned as part of the overall aims and objectives, in some cases with a more specific emphasis e.g. Sustainable Tourism Development. The VASAB 2010+ is one of the most all-encompassing trans-national spatial planning and co-operation projects, building on previous experience in this area.

Contact between projects with a similar theme has been encouraged. In the first round, for example, it was recommended that contact be made between the Baltic Bridge and Translogis projects in the transport field and the MapBSR and PSSD projects in the information field. While this contact was not a condition of approval, it was considered beneficial and nevertheless established.”

The future Interreg III Programme – the next round

Negotiations between the European Commission and the EU Member States on a follow-up Interreg III programme for the period 2000–2006 have just started. Draft guidelines for the programming work have been compiled for a review by MS and within relevant EU institutions and the European Parliament during 1999 and spring 2000. The final guidelines are scheduled to be officially issued by the Commission in April/May 2000. After that, the Member States will have to present draft Operational Programmes to the Commission within six months, followed by an agreement procedure. We conclude that the new Interreg III programmes will, therefore, be launched at the end of 2000 or in the beginning of 2001.

Preparations for the new BSR Interreg III B programme (as the successor of Interreg II C) have started. A first informal meeting with representatives of all BSR countries, the VASAB Secretariat and the Common Secretariat was held on 5 November in Helsinki. It was decided to set up a Joint Programming Committee (JPC), comprised of representatives from all BSR countries. The JPC will be responsible for decisions under the new BSR Interreg III B programme. The JPC will be supported by three working groups. The work will officially start early next year.

**FOUR LEVELS OF
SPATIAL PLANNING
IN GERMANY**

The Structure of Spatial Planning in Germany

by Gerd Turowski¹

Introduction

This contribution is by no means intended as a complete description of spatial planning in Germany – such an attempt is better served by the planning handbooks under elaboration. The following explanations focus, instead, on five theses which are helpful for understanding the German planning system.

An untranslatable term: *Raumordnung*

Thesis 1: The most important German planning term *Raumordnung*, as well as the terms *Landesplanung*, *Regionalplanung* and *Bauleitplanung*, should not be translated into the English language. Doing so would involve a loss of conceptual substance. Instead, these terms should be explained and clarified.

Spatial planning in Germany is in a strong legal position. For this reason the fundamental planning terms are defined in a specific legally binding manner, making it misleading to attempt to use a pure translation for the German into the English language (Figure 1).

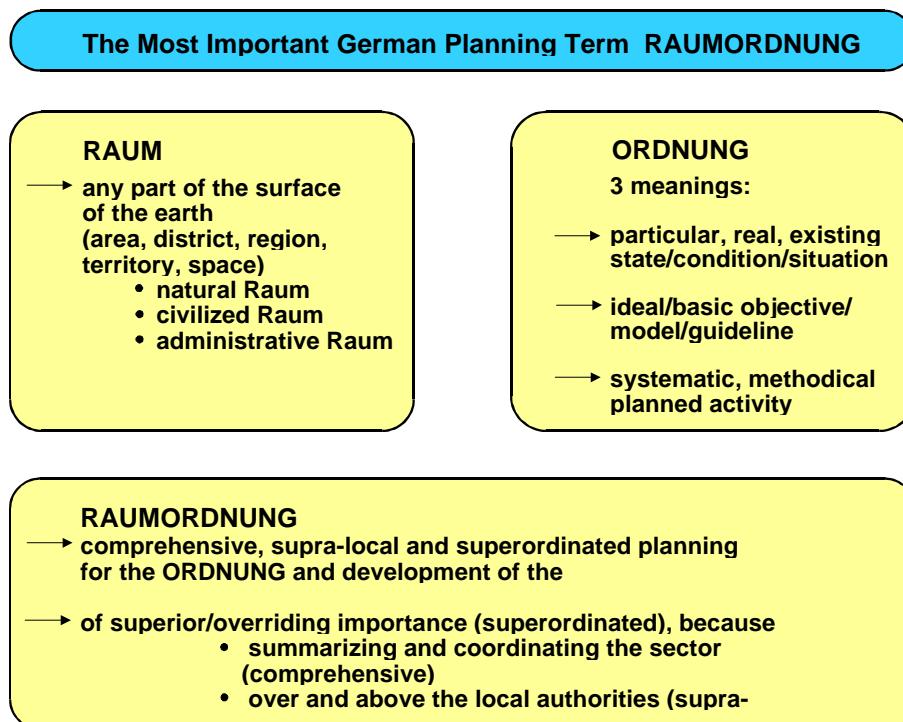


Figure 1. The German planning term *Raumordnung*

¹ University of Dortmund.

The following examples show different attempts to translate the term “*Raumordnung*” directly:

- space planning (European Parliament 1978)
- spatial management (The Minister of the Interior of Lower Saxony 1983)
- national/regional planning (VENTURI: Town planning, GLOSSARY 1990)
- comprehensive regional planning (DAVID: Law and Practice of Urban Development in the FRG, 1993)
- Federal regional planning (mainly used by the Bundesregierung and the Akademie für Raumforschung und Landesplanung)
- environmental planning (PONS Dictionary 1999).

None of these translations gets to the heart of the meaning of *Raumordnung*, *Raumordnung* consists of the words *Raum* and *Ordnung*. *Raum* is an extensive concept in German linguistic usage. *Raum* is any part of the earth’s surface. *Raum* can be an area, a district, land, a region, a territory or a zone. On the one hand, there is the natural *Raum*, that is the natural space or landscape. On the other hand, there is the civilized *Raum*, that is the man-made landscape. And thirdly, there is the administrative *Raum*, that is an administrative unit, this is the *Raum* for manifesting a political system.

The German word *Ordnung* has three different meanings. *Ordnung* is, firstly, a particular, actually existing state, condition or situation. So the *Raum* may be in good or poor order. Secondly, *Ordnung* can be an ideal, a basic objective, a model or a guideline. In this respect *Ordnung* is an overall concept. Thirdly and finally, *Ordnung* is also a systematic, a methodical or a planned activity, the point of which is to put the *Raum* in order.

The term *Raumordnung* has found its way into the German constitution (Basic Law 1949). *Raumordnung* means, in accordance with a decision by the Federal Constitutional Court of 1954, the comprehensive, supra-local and superordinated planning for the *Ordnung* and development of the *Raum*. *Raumordnung* is of superior, overriding importance (that means superordinated), because it summarizes and co-ordinates sector planning (that means comprehensive) and, in addition, it is situated over and above the local authorities (that means supra-local).

The Levels of Spatial Planning in Germany

RAUMORDNUNG	is executed by the Federation (BUND) and by the Federal States (LÄNDER)	
RAUMORDNUNG	in the Federation	= BUNDESRAUMORDNUNG
RAUMORDNUNG	in the Federal States	= LANDESPLANUNG
RAUMORDNUNG	in parts of the Federal States	= REGIONALPLANUNG

BAULEITPLANUNG	= two-phase urban development planning of the communities/municipalities
FLÄCHENNUTZUNGSPLANUNG	= land-use planning
BEBAUUNGSPLANUNG	= local building planning

Figure 2. The levels of spatial planning in Germany.

After this clarification, the next step is to describe the different levels of the spatial planning in Germany (Figure 2).

Raumordnung is executed by the Federation and by the federal states. *Raumordnung* carried out by the Federation is termed *Bundesraumordnung*. *Raumordnung* in the federal states is referred to by the term *Landesplanung*. *Raumordnung* in parts of the federal states – in the regions – is called *Regionalplanung*.

Spatial planning on the municipal level is described by the legal term *Bauleitplanung*. *Bauleitplanung* is the two-phase urban development planning of communities or municipalities, consisting of the (preparatory) land-use planning (*Flächennutzungsplanung*) and the local building planning (*Bebauungsplanung*).

The structure of the planning system in Germany

Thesis 2: Spatial planning in Germany is not a unified, homogeneous, self-contained object, but a system of planning levels (the Federation, federal states, municipalities), strictly separated from each other as far as their legal responsibilities and tasks are concerned. On the other hand, these levels are closely interlinked through the countercurrent principle² as well as on the basis of complex regulations regarding information, participation, co-ordination and legal bindingness.

Understanding the German planning system requires some basic knowledge about the structure of the state and administration in the Federal Republic of Germany (Figure 3).

The most important characteristic of the German constitution (Basic Law) is the strict division of the competences and responsibilities between the national state – comprised of the Federation (*Bund*) – as the central state/authority and the federal states (the *Länder*). This means that the Federation and the federal states together form the state level in contrast to the self-government of the municipalities. The federalist principle characterizes the constitutional union of states, and here the authority of the state is divided between the federal states, as its member states, and the Federation, representing the country as a whole. The federal states do not have complete autonomy themselves, but hold sovereign powers within the framework of the federal constitution that are restricted to certain fields. These powers they exercise through their own legislatures, executives and judiciary. Public responsibility has been apportioned in such a way that law-making is actually predominantly in the hands of the central state, the Federation, whereas the constituent states (federal states) are primarily responsible for administration, in other words, the implementation of the laws. This division of responsibilities is an essential element of the system of separation and balance of powers provided for in the Basic Law.

German federalism, much as in the United States and Switzerland, binds the external unity of the state in its whole with its internal diversity. Preserving that regional diversity is a traditional part of the federal system. This function acquires increasing importance in the form of regional responsibilities, such as the protection of monuments, historical sites and natural landscapes and the promotion of regional culture.

² Principle of countervailing influence: mutual participation of “higher” and “lower” levels when preparing and modifying the respective planning documents.

The Structure of the Administration in the Federal Republic of Germany
Staats- und Verwaltungsaufbau der Bundesrepublik Deutschland

Main functions of powers of the state Hauptfunktionen d. Staatsgewalt		Legislature (Organs of legislation)	Executive (Government, Administration)	Judiciary (Administration of Justice)
		Legislative (Gesetzgebung)	Exekutive (Regierung, Verwaltung)	Judikative (Rechtsprechung)
Elements of the Federal State Elemente des Bundesstaates	S t a t e	The Federal President Bundespräsident		
		The Bundestag Bundestag	The Federal Government - The Federal Chancellor - Federal Minister Federal Administration Bundesregierung - Bundeskanzler - Bundesminister Bundesverwaltung	Federal Court - Federal Constitutional Court - Supreme Court Bundesgerichte - Bundesverfassungsgericht - Oberste Gerichtshöfe
		The Bundesrat Bundesrat		
	Federation Bund			
	Federal States/ The Länder Länder	State Parliaments Landtage	State Governments - Prime Ministers - State Ministers Landesregierungen - Ministerpräsidenten - Landesminister State Administration Landesverwaltungen	- Constitutional Courts or State Courts - Verfassungs- bzw. Staatsgerichtshöfe - All the branches of justice excluding Supreme Courts - sämtliche Zweige der Gerichtsbarkeit, ausgenommen die Obersten Gerichtshöfe
	Authority Districts Regierungsbezirke		The Regierungspräsidenten Regierungspräsidenten	
Self-Government	Districts Kreise	District Assemblies Kreistage	District Administration Kreisverwaltung	
	Municipalities Gemeinden	Local or Town Councils Gemeinde- bzw. Stadträte	Local or Town Administrations Gemeinde- bzw. Stadtverwaltungen	

Figure 3. The structure of the administration in the Federal Republic of Germany.

The Planning System of the Federal Republic of Germany

The Structure of the State	Planning Levels	Legal Basis	Planning Instruments		Material Contents
Federation (BUND)	RAUMORDNUNG in the Federation (BUNDESRAUMORDNUNG)	RAUMORDNUNGSGESETZ (ROG)	—		→ Principles of the RAUMORDNUNG
Federal States (LÄNDER)	RAUMORDNUNG in the Federal States (LANDESPLANUNG)	RAUMORDNUNGSGESETZ and LANDESPLANUNGSGESETZ	Compre- hensive, Super- ordinated Plans	→ RAUMORDNUNGS- PLAN → Spatial and Sectoral Partial Plans	Objectives of RAUMORDNUNG
	REGIONALPLANUNG			→ REGIONALPLAN → Regional Land-use Plan	
Municipalities (GEMEINDEN)	BAULEITPLANUNG	Federal Building Code (BAUGESETZBUCH [BauGB])	BAULEIT- PLÄNE	→ Land-use Plan (FLÄCHEN- NUTZUNGSPLAN)	Determining the different kinds of land-use
				→ Local Building Plan (BEBAUUNGSPLAN)	Designations for the STÄDTEBAULICHE ORDNUNG

Leading Concepts
(LEITBILDER) of the
Spatial Development

Figure 4. The planning system of the Federal Republic of Germany.

The allocation of responsibilities and tasks between the Federation and the federal states is very complicated and often the subject of political discussions and arguments. The federal states, in fact, have their own constitutions a characteristic typical of an independent state.

The third administrative level, in addition to the Federation and the federal states, is local self-government. The Basic Law guarantees municipalities the right to regulate their local affairs within a specified framework. Self-government embraces, in particular, local transport and road construction, electricity, water and gas supply, sewage and waste disposal and town planning, as well as the building and maintenance of schools, theatres and museums, hospitals, sports facilities and public baths.

The federal principle in Germany, in contrast with centralized unitary states, is able to take account of special regional characteristics and initiatives. In this way it is possible for numerous economic, cultural and political centres to develop and to encourage balanced spatial structures.

In summary, it can be concluded that the Federal Republic of Germany is, in contrast to most other European countries rather a decentralized state. This fact has a crucial effect on the German planning system. Spatial planning in Germany is characterized by the legally determined distribution of responsibilities and tasks between the three levels of the Federation, the federal states and the municipalities. German spatial planning is consequently a system of planning levels that are clearly delineated legally, organisationally and from the point of view of content (Figure 4).

The decentralized German planning system

Thesis 3: According to the federal principle of the German state, the planning system is decentralized. The outstanding feature of the decentralized German planning system is the fact that the Federation itself has no comprehensive and legally binding spatial planning instrument (Figure 4).

In contrast to the Federation, the federal states do have legally binding planning instruments at their disposal. Only the federal states are authorized to determine the objectives of the *Raumordnung* in comprehensive, superordinated plans, which are legally binding for all representatives of spatial planning and measures.

The activities of the federal states are not restricted to the establishment of spatial plans. Through permanent co-ordination, harmonization and monitoring, the federal states also contribute to the attainment and realization of the objectives of the *Raumordnung*. For this purpose, the spatial planning of the federal states has a number of effective safeguarding instruments at its disposal.

Thus the Federation is active both legislatively and administratively in a number of fields that are of significance for the spatial structure and development of the federal territory. This applies to sector policies of spatial significance (e.g. transport), the sphere of investment and subsidies, and also for finance and fiscal policy.

Tension between state planning and municipal planning

Thesis 4: Spatial planning in Germany is characterized by a permanent state of tension between the authority of state planning and municipal planning on the local level. The conflicts arising cannot be solved theoretically. Every individual case requires special handling, and sometimes a decision by the administrative courts becomes essential.

On the one hand, the Federation stands as the central authority with constitutional responsi-

bilities for the total state – in particular for the establishment of equivalent living conditions for people in all parts of the federal territory. The Federation itself has no overall planning instrument but the federal states fill out this lack by determining the objectives of the Raumordnung, which are legally binding, particularly for the municipalities and their urban development planning (Bauleitplanung).

On the other hand, the municipalities are responsible for organizing their own local matters. One essential element of local government is the right to take responsibility for planning in the fields of urban development and the utilization of land within the municipal territory (planning autonomy of municipality) in accordance with the Federal Building Code (Baugesetzbuch). The communal urban development plans (Bauleitpläne) have to be adjusted to fit the objectives of the Raumordnung. Through this obligation, the Federal Building Code takes into account the functional link between state planning and communal planning. At the same time this legal norm underlines the outstanding importance of the Raumordnung and its function of providing a framework for communal planning.

Clashes arise between the responsibility of the Federation and the federal states for the living conditions of the population in their territory as a whole and the institutional guarantee of the local government and local planning. If the opponents are not able to resolve the conflict situation the relevant case must be taken to the administrative court.

The legal, organisational and methodological basis of the German planning system

Thesis 5: The legal, organisational and methodological basis, the German planning system has been developed efficiently. Political opportunism and immoderate economic interests, however, prevent more successful results.

The representatives on the different levels of the German planning system are equipped with efficient legal instruments for spatial planning and development, for co-ordination and harmonization, as well as for safeguarding and realization of the planning results. These instruments have proved their value legal, organizational and material respects. In summary one can say, spatial planning in Germany has achieved a considerable efficacy. But this evaluation is applied to the theory – the facts are different.

In planning practice the application of the effective instruments is not consistent and the political decision-makers are unable to take forward-looking decisions. So the potential abilities of the instrumental equipment which is available to the representatives of spatial planning in Germany are not utilised effectively.

There are, for example, municipalities which have not elaborated land-use plans despite their obligation to prepare urban land-use plans as soon as, and to the extent that, these are required for urban development and regional policy planning. Another example is the new, superordinated principle of sustainable development in the German planning law. There is still no observance of this legal regulation in the regional and urban planning and development of the land utilization in Germany.

Spatial planning in Germany is part of social politics and economic policy, and thus subject to the basic political and economic conditions. To an increasing degree, the development of these conditions is not sustainable. Even more serious is that in practice spatial planning is under attack through the increasing decline of morality and ethics in the society, in the economy and in politics.

Spatial and Regional Planning – Perspectives from Mecklenburg-Vorpommern and Schleswig-Holstein

by Petra Schmidt¹

Introduction

This chapter will discuss the features which are characteristic of the organisation of spatial and regional planning in the federal states Mecklenburg-Vorpommern and Schleswig-Holstein. Within the scope of a set framework, the organisation in the individual German federal states is quite different.

First of all, some definitions of terms:

- Spatial planning means ‘Landesplanung’ on the level of the federal state.
- Regional planning means ‘Regionalplanung’ on the level of the planning regions.
- Spatial and regional programmes refer to spatial and regional plans. In Mecklenburg-Vorpommern they are called “programmes” and in Schleswig-Holstein they are called “plans”.

Different planning levels, their programmes, plans and drafts

European Union ➤ European spatial development perspective ESDP	informal
Baltic Sea Region ➤ Visions and strategies around the Baltic Sea – VASAB 2010	informal
German state ➤ Framework of perspective and action for spatial planning policy	informal
Federal states Mecklenburg-Vorpommern and Schleswig-Holstein ➤ spatial programmes	formal / binding
Planning regions ➤ regional programmes	formal / binding
Sub-regions ➤ regional development concepts, county and urban development concepts, inter-communal development programmes, urban networks, a.s.o.	informal
Cities, municipalities ➤ communal master-plans	formal / binding

Figure 1. The different planning levels, their programmes, plans and drafts.

¹ Ministry for Labour and Construction of the Land Mecklenburg-Vorpommern.

The respective lower level

- must orient itself according to the next higher level, if this is an informal one,
- while it must adapt itself to the next higher level if it is a formal / binding one.

New tasks for spatial and regional planning: drafting programmes as well as applying and implementing them

Spatial and regional planning no longer only involve the preparation and application of programmes, they have turned into a dynamic political process of agreeing upon specific goals and their implementation. Priority is accorded to finding solutions involving state, municipal and also private actors. In this process the region becomes more and more important as the level which implements regional planning actions.

In fulfilling their tasks spatial and regional planners are guided by the general principle of sustainable spatial development, reconciling social and economic demands on land-use with ecological functions and achieving a lasting well-balanced order between entire areas.

The organisation levels of spatial and regional planning²

Spatial and regional planning are organised on two levels in *Mecklenburg-Vorpommern*:

- on the level of the federal state there is the Ministry of Labour and Construction with its Department of Spatial and Regional Planning as the supreme spatial planning authority;
- on the level of the four planning regions there are the Offices of Spatial and Regional Planning (one office per planning region), which are
 - subordinate administrative bodies of the ministry and
 - offices of the regional planning associations organised on the municipal level.

Spatial and regional planning are organised on a single level in *Schleswig-Holstein*:

- on the level of the federal state and the planning regions the State Chancellery with its Department of Spatial and Regional Planning is the supreme spatial planning authority.

Federal state planning activities: the spatial programme

A spatial programme is drafted for the entire state both in Mecklenburg-Vorpommern and in Schleswig-Holstein. This plan integrates and summarises sectoral planning, constituting the essential corner-stones of spatial development. The plan is binding. It is meant to reconcile competing land-use demands and to harmonise conflicts of interest. It is furthermore meant to keep open options of development, to secure and preserve existing potentials and to allow for their use and further development.

The plan primarily deals with the following aspects: spatial structure, settlement development, open space structure and protection of natural features, economic aspects, agriculture and forestry, tourism and recreation, transport and other infrastructures. As mentioned before, this type of planning is the responsibility of the federal state.

² Have a look at figure 2, 3 and 4 at the end of this chapter.

Planning at regional level³

Mecklenburg-Vorpommern consists of four planning regions and Schleswig-Holstein of five. Each planning region consists of several districts and large cities that are not part of the districts.

The federal state is also responsible for regional planning. The Spatial Planning Authority takes care of this responsibility in Schleswig-Holstein, while it has been delegated to communal special associations in Mecklenburg-Vorpommern with certain stipulations.

In Mecklenburg-Vorpommern there is a so-called “Regional Planning Association” in every planning region. The administrative districts, the independent cities and the communes are members of these associations whose task it is to draw up the regional programme. The programmes must then be enacted by the federal state. The spatial programme is made more precise by regional programmes.

Application of the programmes

Within the framework of the usual administrative procedure, every plan and measure that affects an area (i.e.: plans and measures which utilise land or affect the spatial development and function of an area) must be examined as to whether it is compatible with the requirements of the spatial and regional programmes. This review is done by means of spatial planning procedures for individual projects, spatial planning opinions on communal master planning, on specific planning and also on developmental concepts and guidelines.

The elements of the spatial and regional programmes either have a

- direct impact on plans and measures affecting areas,
- or spatial planning procedures and spatial planning opinions are needed to clarify this impact in detail.

In addition, the elements of the spatial and regional programmes also provide information and advice as well as the support and moderation of processes.⁴

With only a few exceptions, the Offices of Spatial and Regional Planning are responsible for these procedures in Mecklenburg-Vorpommern. The supreme Spatial Planning Authority takes care of this responsibility in Schleswig-Holstein.

Implementation activities in the planning regions and sub-regions

As previously mentioned, spatial and regional planning have developed into a dynamic political process of agreeing on goals and their implementation. Priority is accorded to finding common solutions for state, municipal but also private actors. In this process the level of the regions is especially significant since the responsible parties on the regional level know most about the crucial problems and also about their potential.

In this context spatial and regional planning could and should take on the task of
- regional management (in the sense of initiating and moderating processes and introducing know-how).

This regional management is necessary for developmental tasks in which local self-centredness must be overcome for the benefit of an overall regional view and partnership, on the one hand, and integrated synergetic effects must be expected, on the other.

Several examples can be pointed out:

³ Have a look at figure 5, 6 and 7 at the end of this chapter.

⁴ Have a look at figure 8 at the end of this chapter

- implementation of VASAB 2010 in various projects (supported by the INTERREG-programme), as well as cross-border projects with Poland and Denmark respectively;
- regional marketing initiatives;
- round table talks involving towns and surrounding communes about sustainable settlement development; and
- urban networks.

In essence these are selected inter-communal co-operations, in some cases together with private actors, in which spatial and regional planning are involved.

Conclusion – Propositions

Binding spatial and regional programmes will continue to be important and necessary in the future. They shape the framework within which different land-use demands are reconciled, conflicts of interest are balanced, developmental options are kept open and existing potentials are secured and preserved in order to allow for their later use and further development. “Lean” programmes or plans should be the objective.

The plans of the individual communes must be integrated into the binding programmes. Programmes ensure that the great variety of communal plans lead to an overall draft that is to the benefit of the entire area. The binding programmes also constitute the basis for evaluating the specific plans drawn up by various different bodies as well for evaluating individual plans or measures affecting a specific area.

The binding programmes must be implemented and need to be brought to life in a dynamic political process of agreeing upon goals and their implementation. It is the regional level which is best suited for this process. All of the regional actors must be integrated into this process.

In the implementation process spatial and regional planning take on the tasks of regional management (in the sense of initiating and presenting processes and introducing know-how) for developmental tasks in which local self-centredness must be overcome for the benefit of a regional overall view and partnership, on the one hand, and integrated synergetic effects must be expected, on the other.

Mecklenburg-Vorpommern		Schleswig-Holstein	
activities	responsibilities	activities	responsibilities
Spatial programme	Ministry of Labour and Construction with its Department of Spatial and Regional Planning as the Supreme Spatial Planning Authority	Spatial plan	State Chancellery with its Department of Spatial and Regional Planning as the Supreme Spatial Planning Authority
Regional programmes	Regional Planning Associations in the sense of communal special associations with their offices at the Offices of Spatial and Regional Planning	Regional plan	ditto
Spatial planning procedures, spatial planning opinions	generally: Offices of Spatial and Regional Planning as the subordinate administrative bodies of the Ministry of Labour and Construction	Spatial planning procedures, spatial planning opinions	ditto
Implementation-oriented activities	generally: communal level in co-operation with spatial and regional planning	Implementation-oriented activities	generally: communal level in co-operation with spacial and regional planning

Figure 2. Programmes, plans and concepts of spatial and regional planning in Mecklenburg-Vorpommern and Schleswig-Holstein including the respective responsibilities.

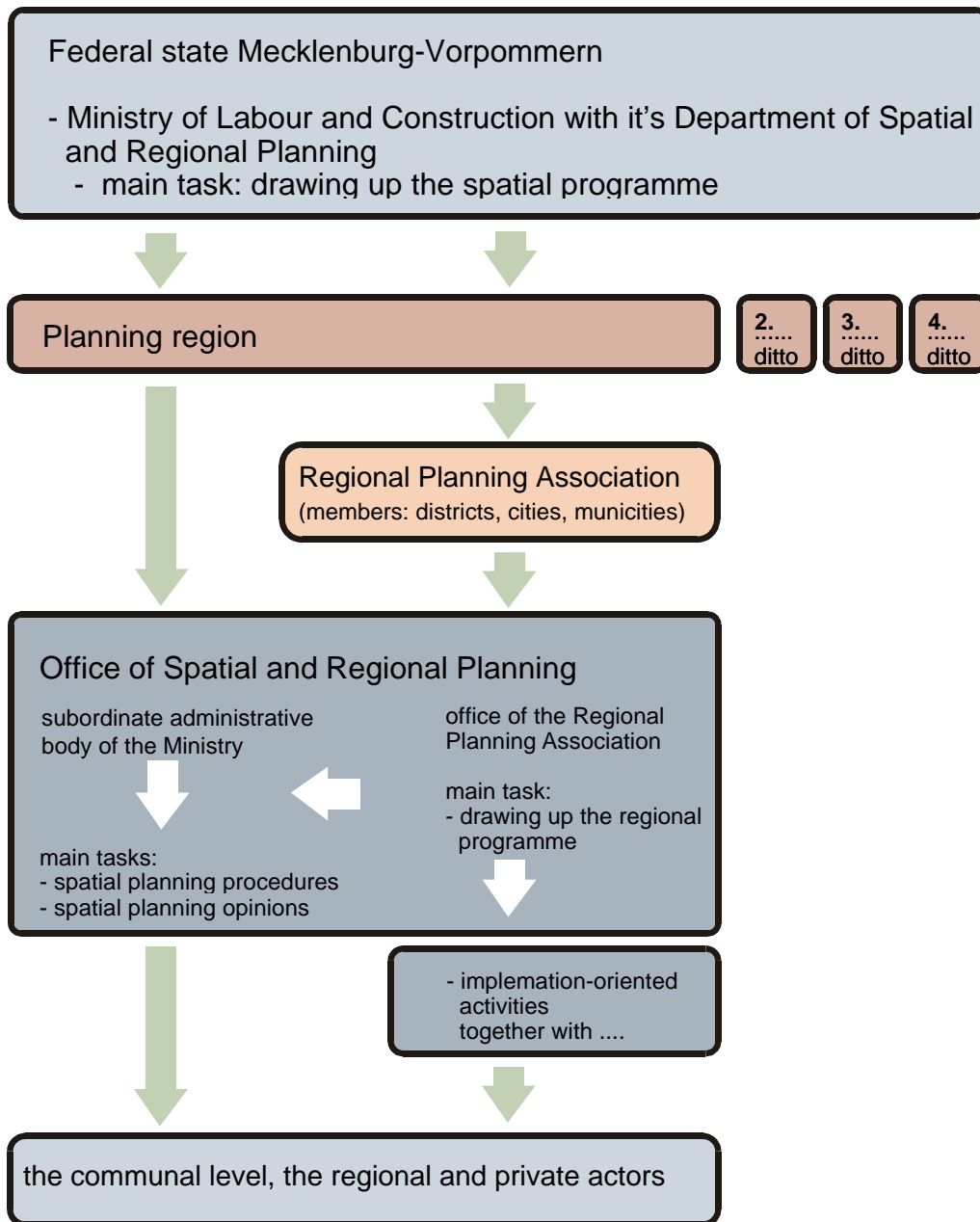


Figure 3. The organisation levels of spatial and regional planning in Mecklenburg-Vorpommern.

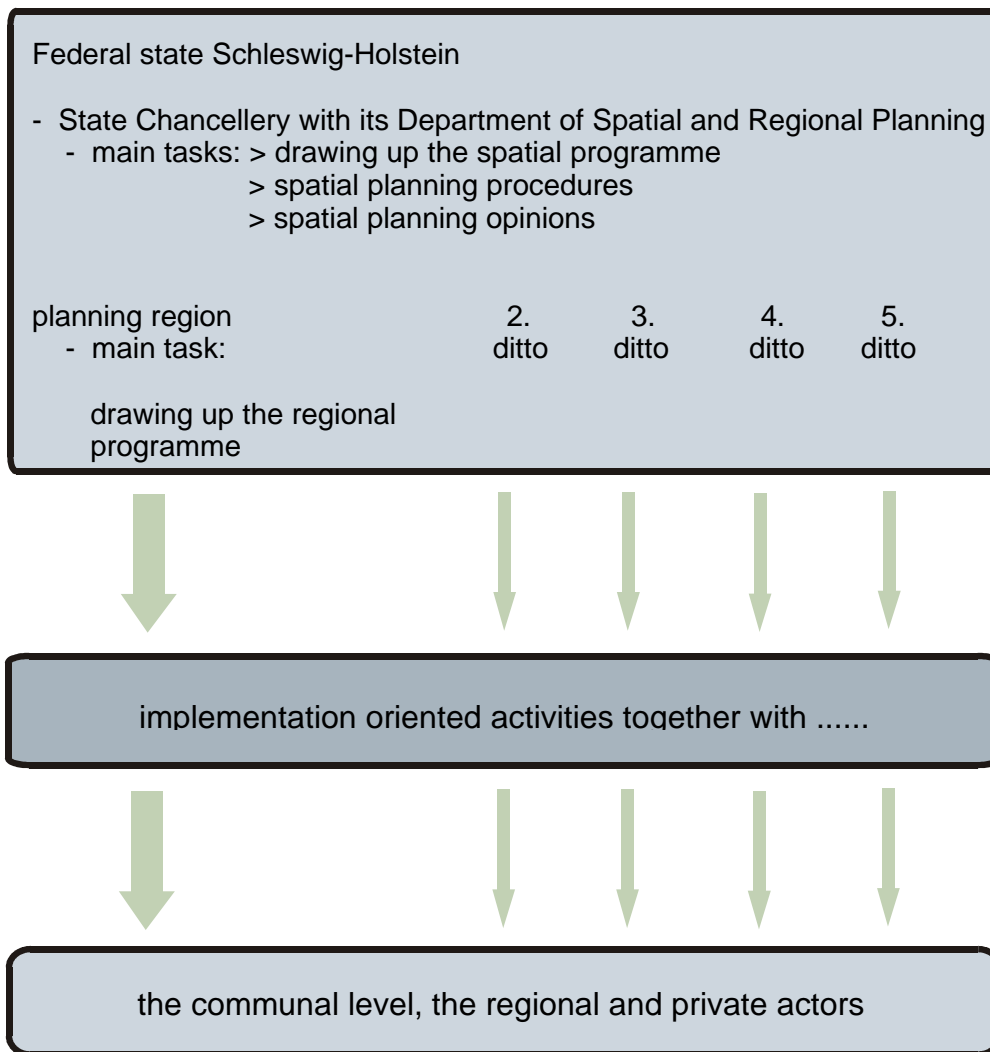


Figure 4. The organisation levels of spatial and regional planning in Schleswig-Holstein.

Planning regions in Schleswig-Holstein



Planning regions in Mecklenburg-Vorpommern



Figure 5. Planning regions in Schleswig-Holstein and Mecklenburg-Vorpommern



Figure 6. An example of a regional programme from Mecklenburg-Vorpommern.

Regional settlement structure

	Higher order-centre
	Intermediate centre
	Intermediate centre with partial functions
	Lower-order centre
	Rural central place
	Midregion
	Conurbation
	Regulatory region
	settlement axis
	Separating green
	Residential priority area
	economic priority area
	City or site with special suitability for cultural tourism
	Individual tourism project with supra-local significance
	General settlement area
	Primarily economic area

Regional open space

	Priority area for nature protection and landscape conservation
	Area with special significance for nature protection and landscape conservation
	National park (NLP) Nature protection area (NSG) Biosphere reservation (BR) Nature park (NP) Biotope or network of biotopes (BT) Landscape protection area (LSG)
	Deep moor locations (M)
	Protected part of the landscape Nature monument
	Forest
	Natural flood area
	Priority area for tourism
	Area for tourism development
	Recreation area in the immediate vicinity
	Priority area for securing of drinking water
	Area with special significance for securing of drinking water
	Priority area for the extraction of raw materials (gravel K; siliceous sand Ks; sand S; clay T; chalk Kr; peat Tt)
	Area with special significance for the extraction of raw materials (gravel K; siliceous sand Ks; sand S; clay T; chalk Kr; peat Tt)
	Areas with special natural suitability for agriculture
	Suitable area for wind-energy plants
	Military installation
	Conversion area

Regional infrastructure

	Federal motorway, motorway ramp / planned Other major road / planned
	Federal motorway corridor (in planning)
	Federal road / planned
	Road for regional traffic/ planned
	Road with significance for developing an area / planned
	Bike route network with regional significance / planned
	Freight traffic centre
	Rapid maglev / stop / planned
	Long-haul passenger railroad with stop / planned stop
	Short-haul passenger railroad with stop / planned stop
	Other railroad
	Electrified railroad / electrification planned
	Major ferry line
	Regional airfield with building and noise protection area / planned
	Other airfield / planned
	Major shipping route
	Other shipping route
	Seaport
	Inland port
	Pleasure craft port
	Sluice
	Directional radio route
	Power line / planned
	Transformation station / planned
	Gas pipeline / planned
	Gas delivery station / planned
	Oil or product pipeline / planned
	Power plant with supra-local significance / planned
	Supra-local sewage line / planned
	Sewage treatment plant with supra-local significance / planned
	Waterworks / planned
	Regionally significant waste disposal plant / planned
	Natural gas reservoir / planned

Administrative boundaries

	Boundary of the Land
	Administrative district boundary
	Communal boundary

Figure 7. Notation symbols used in the map of the regional planning programme (reduction).

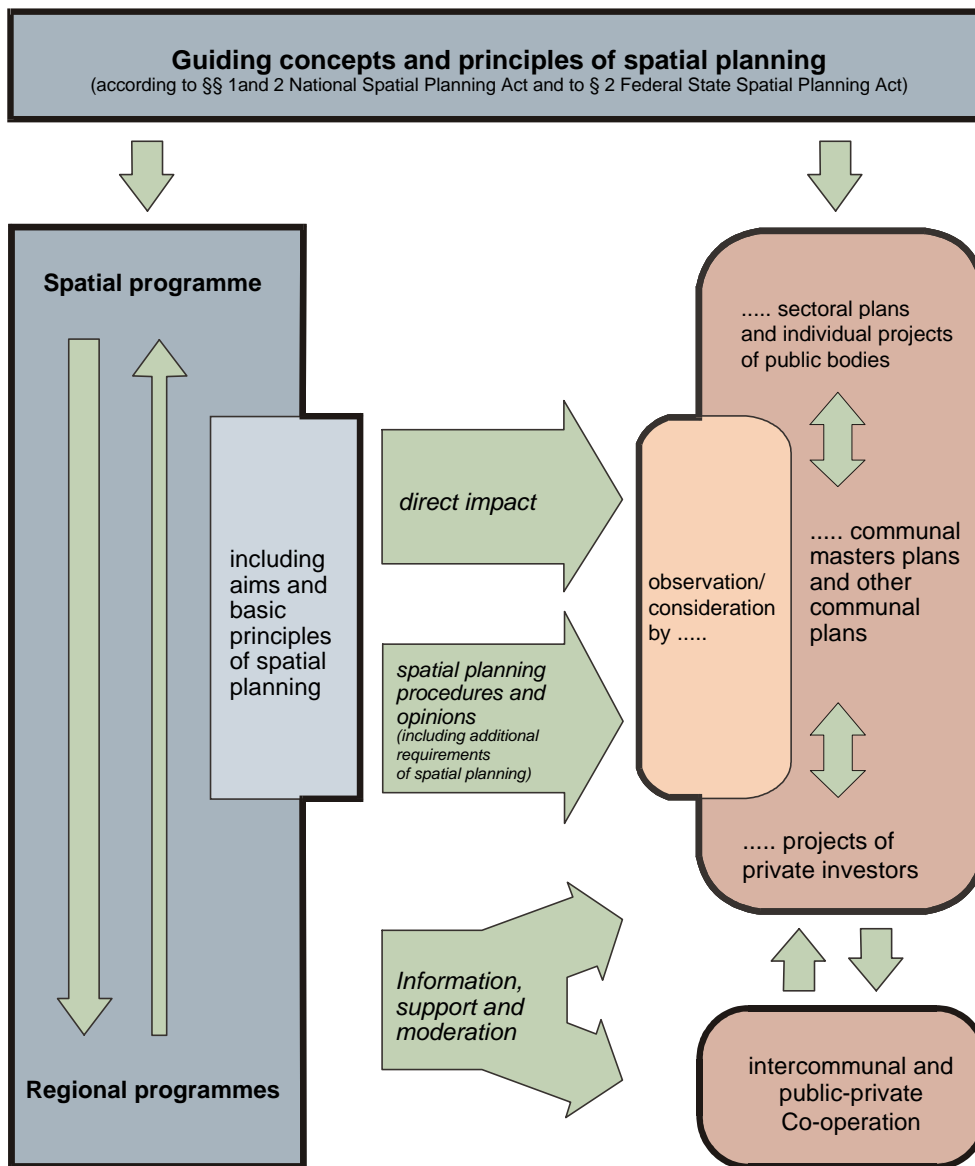


Figure 8. Instruments of Spatial Planning and their impacts (Mecklenburg-Vorpommern).

The Urban Development Contract - a New Instrument of Property Development in Germany

by Robert Sander¹

Introduction

Over the past ten years a radical change has occurred in Germany in attitudes towards the central tasks of the state. In the face of financial and over-regulation, a new policy of de-regulation, greater individual responsibility, and the privatisation of public services has become established. This shift in competencies and responsibilities towards private enterprise offers new opportunities for more strategically oriented action and decision making by public authorities; but local government planning policy and management must also adopt a more strongly economic orientation.

Traditionally, urban development has not taken place unilaterally in accordance with abstract instructions from local government (the municipality) as the representative of the public sector. The reality of urban development is determined rather by the interests of individual property owners, project promoters, investors, or particular sectors of the population. Municipal activity is therefore often *reactive* rather than *proactive*. Urban development and planning law have thus always been characterized by consultations, agreements and informal arrangements. However, in recent years there has been a shift in emphasis that has markedly strengthened these tendencies.

Governmental and administrative action has to deal increasingly with complex and often mixed ecological, economic, planning, technological and social problems. In an effort to maintain the capacity to act and to resolve these complex problem constellations, local government in Germany has adopted various forms of “cooperative” or “consensual” administrative action. At various levels in administrative and decision-making proceedings, a basis for appropriate implementation is elaborated in close with the parties concerned. This form of public-private partnership plays a particularly important part in planning law. The planning and development of major projects are now almost inconceivable without public-private contracts. Before exploring this issue further, it may be helpful to give a brief overview of basic elements in the German planning system.

Basic elements in the German urban planning system

Within the two-tier organisation of the federal state, consisting of the federation and the states, municipalities (cities, towns, and villages) are subsumed for constitutional law purposes under the states. The German constitution (*Grundgesetz*) states that “the municipalities shall be guaranteed the right to manage all the affairs of the local community on their own responsibility ...” (Article 28 (2)). This “institutional guarantee” of “local government” is, however, subject to the proviso that it should be exercised “within the limits set by law”. Besides other essential elements of local self-government, such as organisational, personnel, and budgetary powers, planning powers are particularly important in our context. Urban development and land-use planning within the territory of the municipality are the responsibility of

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local government.

The scope of state or municipal government to influence building activities, land use and the development of settlement structures is limited by the *Grundgesetz*. Two issues are particularly important. The first is the fundamental right to own property, including the right to the private ownership of land and of any buildings situated thereon and the right of free use of this property. The second is the basic right to self-fulfilment, which includes the free choice of residence and precludes direct intervention by the state to control the development of settlement structures, for example by imposing limitations on migration to certain regions.

Planning law in Germany regulates the conditions under which permission can be given for the implementation of a specific development project by a property owner. The relevant provisions are found principally in the Federal Building Code (*Baugesetzbuch*) and in the Land Use Ordinance (*Baunutzungsverordnung*).

Urban planning in German towns and cities is essentially a two-stage procedure: the preparatory “land-use planning” (*Vorbereitende Bauleitplanung*; “*Flächennutzungsplanung*”) and the various legally binding land-use planning (“zoning plans”) (*Verbindliche Bauleitplanung*; “*Bebauungsplanung*”). The land-use plan covers the entire municipal territory. It classifies and defines the various types of land use permitted throughout the municipal area along general lines consistent with the nature of development envisaged. Zoning plans must then be elaborated on the basis of the land-use plan. They effectively define the type of land use permissible for the particular tract of land within the planning area.

In view of the great significance which these two types of plan have for a municipality, for property owners and for the public in general, the Federal Building Code establishes planning principles and procedural rules to govern the preparation of urban land-use plans. Each municipality is responsible for preparing the land-use plan for the territory under its control. The general public and other authorities that may be affected by planning must be given an opportunity to participate. After the plan has been made available for public inspection and has been adopted by the local council, it must be approved by the higher administrative authority. Urban land-use planning must be co-ordinated with comprehensive regional planning at the federal and state levels (*Raumordnung*, *Landesplanung* and *Regionalplanung*), which is formulated in the programmes and plans issued by state governments. Municipalities are involved in the development of these programmes and plans.

Urban development contracts

Traditional urban development planning procedure

As described above, the zoning-plans (*Bebauungspläne*) play a crucial role in the development of towns and cities. Zoning plans for individual lots or larger tracts of land provide the basis on which public and private investors can realize projects, and prescribe the type and intensity of uses. In the past, towns and cities usually prepared such zoning-plans through the following process: the land was replotted, improvements such as streets, utilities, and infrastructure were planned and constructed – all largely financed by local government. As a rule, this was done without knowing precisely what investors or owners would be involved and what projects would be realised in the area concerned. Depending on the size and complexity of the planning area, this procedure took between one and five years. We refer to this sort of planning as *supply planning*. When the procedure begins it is still quite unclear whether or when an investor or developer will apply for building permission.

Provision of building rights (*Baurecht*) generally involves outlays and expenses like planning costs, and development costs for the new residential, commercial and industrial areas, for social and technical infrastructure, or for compensatory areas (*Ausgleichsflächen*) under nature protection law. At the same time, the provision of building rights by the state (in this case the municipality) raises the value of the land considerably. Owners and investors benefit. In the past, there was hardly any possibility of easing the burden on local government by distributing costs more evenly between the state and private investors.

This type of supply planning had a number of disadvantages for towns and cities. For one thing, government (the municipality) provided considerable preliminary planning and financial input in the reorganization of land, development and infrastructure. Today, when they are plagued by considerable financial, manpower and structural problems, municipalities can no longer afford this. On the other hand, the legal binding zoning-plan is much too inflexible because it is based on assumptions and guidelines that take no account of the specific requirements of investors and the economic constraints under which they operate. As a rule, such legal binding zoning-plans can be modified only with a great deal of administrative effort and delay.

New planning approaches

Against this background, the planning and realization of urban development projects in Germany has changed over the past ten years, and the changes have also left their mark on planning and building law. Three important amendments were made to the Building Code in 1998 that are important both for the financing of urban development planning and projects, for speeding up planning processes, and for urban development as a whole. The new instruments are:

- urban development contract (*Städtebaulicher Vertrag*) (§ 11, BauGB),
- project and infrastructure development plans (*Vorhaben- und Erschließungsplan*) (§ 12 BauGB), and
- urban development measures (*Städtebauliche Entwicklungsmaßnahmen*) (§ 165 BauGB).

All three instruments can be applied in various urban development situations and also in combination. In the following the focus will be on the urban development contract, but first a very brief look at the other two instruments should be taken:

- The *project and infrastructure development plan* is a suitable instrument if there is an investor who has land available and can present a ready concept for use. He carries out and pays for the planning (which nevertheless needs the approval of the municipality) and assumes responsibility for all the necessary measures to prepare the site.
- The *urban development measure* is an instrument for the initial development of single districts or parts of the municipal territory in keeping with their particular importance for urban planning or, in the context of reorganization, to implement new development in such areas.

The designation of an area as a “development area” allows local government to take certain measures (e.g. to acquire land at a low “opening bargain price”, to improvement and resale of land at a high “development price”, the compulsory purchase of property). The precondition is that there is proven need for housing, commercial or industrial construction and infrastructure. The entire process from planning to the acquisition of land, and development and construction, as well as the resale of property can be handled by a developer acting on behalf of the municipality.

Urban development contracts serve to carry out urban development tasks. They complement the governmental instruments provided by planning law. From the point of view of the municipality, an urban development contract can be used in many cases to overcome financial and staffing restrictions by committing an investor or property owner to carrying out works at

his own expense or to assume any expenses that the municipality has already incurred. Especially in periods when more building land is needed for housing and industry, contractual solutions are very important for local government.

Types of contract

In the process of planning, developing and building, different types of contracts dealing with a range of matters can be involved, which include the following.

- Contracts on the *transfer of planning and works from the municipality to the private sector*. This can mean the preparation or implementation of urban development works by the private party at his own expense. This includes the reallocation and reorganization of land, and other preparatory measures, as well as the elaboration of urban development plans, without affecting local government responsibility for statutory planning procedure (§ 11 (1) (1) Building Code BauGB).
- Contracts to *safeguard certain land-use planning objectives*. This includes the use of the building land (obligation to build), the implementation of so-called compensatory measures for intervention in nature and landscape, meeting the housing needs of sections of the population with particular housing supply problems, and the housing requirements of the local population (§ 11 (1) (2) Building Code BauGB).
- *Infrastructural contracts* deal with the assumption of costs and other expenses normally accruing to the municipality that are a precondition or consequence of the project in question. They include, in particular, provision of land for infrastructural facilities and construction of the facilities themselves, such as kindergartens, schools, social facilities (§ 11 (1) (3) Building Code BauGB).
- *Infrastructure development contracts (Erschließungsverträge)*, under which the investor or developer undertakes to bear preparatory development costs for an area entirely or in part (§ 124 BauGB).

Advantages and limitations of contractual solutions

Not in every case nor for all urban planning projects are all types of contract used. Depending on the situation and the negotiating position, only certain types may be applied. The private party enters into such contracts, which generally impose a financial burden, because they provide planning or building authorisation. For the municipality, such contracts are the precondition for establishing a land-use plan granting building permission. With the aid of such contracts, local government is increasingly succeeding in unburdening itself of the cost of developing new areas and restructuring old ones, while at the same time ensuring that planning goals are actually attained. It is now possible to move from pure *supply planning* to more *project-oriented* and thus *implementation-oriented* planning. The particular advantage over other procedures is that *consensus* is achieved, and that the results can generally hope to meet with a high degree of acceptance. Such consensual solutions also save time and money for private investors and developers.

Despite all the advantages offered by contractual solutions, the limits and possible disadvantages should not be overlooked. Urban development contracts presuppose that consensus can be reached between the municipality and the other contracting party. Owners and private investors cannot be forced to conclude contracts with the municipality, and, vice versa, municipalities cannot be obliged to enter into such contracts. With its monopoly on planning, local government is in a strong position vis-à-vis private parties if, given suitable alternatives, it can renounce the development of particular tracts of land and does not have to rely on designating a particular area as building land.

The new provisions of the Building Code do not mean that all terms have to be established by contract. A number of important aspects have to be taken into consideration: the principles of *fairly balanced interests* and the *rule of law* are not to be undermined. Furthermore, there

must be a causal relationship between the project concerned and the urban development measure envisaged (*causality requirement*). And there is a so-called *prohibition of tie-in arrangements*: agreements about certain obligations on the part of the contracting party are inadmissible if such obligations exist without such agreement. Finally, payments agreed under the contract must be “*appropriate to the entire circumstances*” (*appropriateness requirement*). This means, for example, that payments must be in reasonable proportion to the value of the project. One guide to assessing appropriateness can be, for example, the rise in the price of land caused by development of the area.

Adjusting to changed conditions

Urban development contracts are to the advantage of municipalities because they relieve them of the developer and investor risk; this passes to the owner or the investor, who in principle also has to bear the economic consequences of any change in prevailing economic conditions. For this reason, urban development contracts have to be flexible so that they can be adapted, with the agreement of the contracting parties, to changes in circumstances. This can, for example, allow an investor to carry out a project step by step, to build the agreed infrastructural facilities only when they are actually needed, or to reduce the dimensions of the project if demand fails to materialize.

However, over and above the flexible design of contracts, safeguards have to be provided for municipalities in the event an investor does not want to implement a project for other reasons. The most important such safeguard is the requirement that the investor provide a bank guarantee. In practice, contracts are hardly ever terminated, since this could mean lengthy litigation. On the other hand, the municipality cannot simply withdraw *its* contribution, namely the land-use plan and building permission, since it might then face claims for damages.

All in all, it is clear the urban development contracts are an important instrument for urban planning and for carrying out major urban development projects. But it is also clear that local government is increasingly entering a new area of public-private cooperation that demands not only a high degree of planning quality but also high economic and managerial qualities. Managerial qualities and the relevant know-how are increasingly important for a complex contractual system, but so far they have been little in evidence.

Examples

Berlin – Karow-Nord

To satisfy the high demand for housing following the reunification of Berlin, several major housing projects were planned and implemented, primarily by municipal housing construction companies in cooperation with private investors. In almost all cases urban development contracts were concluded in a variety of constellations. At least actually 18 large projects are underway in accordance with urban development contracts, covering total costs of 1.24 billion DM, concerning more than 20,000 dwelling units, 37 kindergartens, eight youth centers, seven primary schools, one comprehensive school, two sport halls, three sportfields, one recreation-center for senior citizens, as well as infrastructural facilities and green areas. Payment of a total cost of DM 1.24 billion was divided between the Senate of Berlin, which paid DM 550 mil. and DM 694 mil. which was paid by the private investors. One of the largest examples is the new suburb Karow-Nord, in north-eastern Berlin.

From 1991 onwards, an investor consortium bought agricultural land in Karow-Nord in coordination with the Berlin Senate on the basis of informal agreements with the aim of building a new district in accordance with the results of an urban development competition, once a land-use plan had been elaborated by the Senate. The city also contributed land of its own. The total area was 98 hectares. In 1992 a contract was signed between the Senate of Berlin

and the investor consortium, the most important provisions of which included the following:

- building-land organization (reallocation and replotting);
- planning and preparatory development;
- assurance of public support for housing construction (by the Senate);
- the gratuitous transfer of the land required for public purposes by the State of Berlin;
- the partial financing of public infrastructure by the investors;
- the obligation to build by set deadlines;
- parallel construction of social infrastructure (residential infrastructure);
- building of service facilities;
- administrative coordination;
- logistics.

This contract provided the underlying conditions needed by both the investors and the Berlin Senate. The Senate now had to create the necessary legal basis by elaborating a zoning plan. Moreover, it had promised public support for the housing project. The infrastructural facilities the investors were committed to construct were valued at up to DM 190 million, and represented part of the increase in value from planning that the investors were able to obtain through building permission.

This contract was concluded to make it possible for the investors to *build quickly*, and to satisfy Berlin's need to construct housing fast and on a large scale, while ensuring orderly urban development and a use of the land consistent with social justice and the public good.

By 1999 the overall project has largely been completed. 5,200 dwellings have been built, along with 10 day nurseries, 2 primary schools, 1 comprehensive school, 2 youth clubs, and about 13,000 square metres of commercial space. The planning and carrying out of such a large project within eight years is certainly a major achievement that could never have been attained by the "classical" procedure of land supply and development.

The example of Munich

The City of Munich has chosen a different course as its basis for contractual arrangements. Under a 1994 Framework Resolution (*Grundsatzbeschluss*) of the Munich City Council on "socially equitable land use" ("*sozialgerechte Bodennutzung*") the obligations of investors are not negotiated anew in every single case and a specific contract concluded. All potential investors are required to share the costs and burdens of legally binding urban planning that raises land values significantly. Their share can be as much as two-thirds of the value added to the land as a result of planning. This means that the investor retains one-third of that value increase as an investment incentive to cover individual expenses, including an amount for risk and profit. The increase in the value of the land, which is to finance all this, is calculated on the basis of the difference between the value of the land before planning (initial value; *Anfangswert*) and after planning (final value; *Endwert*).

The beneficiaries of planning (the investors) may have to bear a prorated share of the costs arising from the planning project and any commitments to safeguard certain urban development objectives that affect costs, in so far as they are the *precondition* or *consequence* of the planned project. They include:

- the gratuitous and free-of-charge transfer of land for development facilities in the planning area (green and traffic areas, emission protection facilities and the like), for public facilities (kindergartens, schools, etc.), and for areas provided as compensation for interventions in nature and landscape;

- assumption of the cost of providing the social infrastructure facilities required as a result of the project, although this can be replaced by a prorated financial contribution of DM 130 per square metre of floor space;
- assumption of competition expenses, the cost of additional public relations, fees relating to the award of contracts to third parties, the cost of expertise, and the costs of reallocation;
- commitments of the investor affecting costs, such as the apportionment of 30% of new building rights to public-sector housing;
- the investors also undertake to build within a reasonable period (which is determined in individual cases).

The planning beneficiaries include not only private investors and land owners, but also, for example, the City of Munich itself and the State of Bavaria, as well as all other public corporations.

The procedure itself is organized as follows. When the city has planning intentions for a certain area, and before planning procedure is initiated, the basic consent of planning beneficiaries is obtained to share costs and burdens in accordance with the principles that have been mentioned. Without this basic consent, the city council will not commission planning. When planning has reached a stage where it can be submitted to the council for approval, the second step is the conclusion of a *basic agreement*, which contains legally binding provisions that sufficiently specify performance. Depending on the particular case, further specifications and agreements can be made.

The advantage of having a basic and generally applicable arrangement is primarily the *transparency* it lends to procedure, the *equality of treatment* for all, and the *reliability* and *calculability* of costs and burdens. Finally, this procedure considerably shortens land-use planning procedure and construction time – the latter representing cash in hand for the investor (savings on interest).

Since 1994 more than 24 legally-binding land-use plans have been carried out in Munich under this procedure, resulting in the provision of 7,000 dwellings, of which 1,700 were public-sector. About 83,000 square metres of land were transferred gratuitously for public traffic areas, about 394,000 square metres for public green areas; 30 day nursery groups were provided, 42 kindergarten groups, and 3 primary schools.

Finally, it should be noted, that this “Munich model” cannot be simply transferred to any other city. This procedure can be effectively applied only where there are considerable margins between land values before and after planning.

Concluding remarks

In the interest of orderly urban development, modern urban management is no longer confined to “supply planning” in the form of land-use planning, and no longer leaves decisions on implementation to private sector investors and promoters. Modern urban management now initiates urban development projects itself, channels investment, and creates “customised” building law in cooperation with the investor. With the new instruments of the “urban development contract” it is possible to adapt building law to the requirements of private investors with respect to both time and content by means of contracts between the authorities and investors. Moreover, these tools make it possible that public sector expenditures, like planning costs proper, the cost of improving new land, and the cost of providing infrastructural facilities need no longer be borne exclusively by the municipality; the investor has to finance these costs from the so-called development profits.

“Public-private partnership”, linking the creation of building law for specific investors or investment projects with the financing of public development and infrastructural expenditures means that changes in the economic environment like slumps on the real estate market can have direct impact on local government action. Local authorities have to take these risks into account at an early stage and, above all, hedge them politically. The advantages of contractual arrangements between public authorities and private investors lie primarily in the reliable and rapid establishment of building rights and in the financial relief they bring for local government.

The risk of law becoming “economised” is perceived primarily in possible constraints on democratic legitimisation principles, in that contractual agreements are not disclosed and the rights of the democratically elected decision-making bodies in municipalities are restricted, leaving them only limited participatory rights, since vital decisions have already been settled by contract.

Finally, the increased use of contractual arrangements demands of municipalities and administrative authorities a new quality in business management and fiscal thinking, as well as efficient contract management, since contracts are generally designed for continuous adaptation to changing conditions.

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**A NEW POLISH
APPROACH TO
SPATIAL PLANNING**

Property Development and Land Use Planning in Poland

by Andrzej Hopfer¹

Introduction

Development of property or real estates in Poland dates back to the notion of private ownership and related rights. Currently it is regulated by several Acts, including:

- the Civil Code of 23 April 1964 which defines *rights related to land ownership*;
- the Act of 21 August 1997 on *Real Estate Management* which uses and complements ideas from the Code Civil and adds the detailed principles concerning change of ownership rights, as well as rules of land consolidation and subdivision, expropriation and getting back expropriated real estate, participation in cost of technical infrastructure building, and a whole set of matters related to buying, selling and maintaining ownership of state and local authority.

Real estate development is also understood as investment, building, rebuilding and enlarging houses and other structures permanently attached to the ground. This is regulated by the *Building Act* of 7 July 1994 concerning designing, maintenance and extension of building constructions.

Physical planning and land use in general is regulated by an *Act on Spatial Management* of 7 July 1994, which in particular covers land-use zoning for different purposes, fixing the principles of land management based on sustainable development, the Act on rural and afforested land protection of 3 February 1995 and several other Acts are dealing with these and related matters.

Land Tenure System

Gershon Feder's (1999) definition of land tenure states that it means holding of land basing on a different type of rights depending of the types permitted by the law being in force in given country.

In the 19th century it was almost impossible for governments to interfere in the owner's right to dispose of his land; nowadays it is common and growing. Of course, ideology may determine to what extent this can happen; there is growing tendency to decrease governmental influence and to allow market forces to become more effective, but the number of governmental options to interfere in one's right to dispose is still high. Counting only the public encumbrances and restrictions against third parties, there are, for example, expropriation, rights of preference, housing regulations, historical monument rules, nature conservation orders, noise nuisance orders, air pollution orders, soil pollution orders, land-use planning regulations, etc. These public encumbrances exist in addition to all kinds of personal rights such as the conditions of long lease agreements and general conditions in contracts of sale.

As the appeal to nations to practice good governance will lead to the execution of government power to interfere in private legal rights to dispose of property, future land administration systems will have to cope with this development.

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Individuals or groups who utilize land in the pursuit of production or consumption activities (e.g., farming, residential) will eventually perceive the advantage of undertaking investments to improve or protect its usefulness. In some cases, an initial investment is needed to make the resource useful at all (e.g., the construction of a house). Because investments imply the commitment of present resources with the expectation of a stream of improved economic or consumption benefits over time, the degree of certainty associated with the stream of benefits is a key factor in determining the incentives of economic agents to undertake such investments.

Societies have recognized, since the dawn of history, the importance of reducing uncertainty concerning the benefits accruing over time to those groups or individuals who undertake investments, hence, the emergence of customs, rules, and legislations specifying the allocation and retention of land rights. In most cases, land rights have been specified in a manner enhancing incentives to undertake investments, as compared to the situation before such rules were specified. In other words, customs and laws must be designed to increase tenure security to a reasonable level.

Land administration systems evolved in part as a tool for implementing rules, customs, and laws enacted to secure tenure. In societies where most economic activity takes place within relatively cohesive communities, formal land administration systems are unnecessary, and indeed are not typically observed. This is because within communities, information is usually quite “symmetric”, transactions and acts of economic consequence are viewed as part of a multi-faceted range of interactions, and community institutions and rules are generally accepted as reflecting the general interest of the group. In such an environment, challenges to an individual’s or a subgroup’s property rights are less likely, as the dispute and tensions involved will negatively affect other interactions (both economic and social) which agents can anticipate having to undertake in future periods. The registration and titling of land is not quite necessary in such situations, as members of the community generally recognize, and are familiar with, the specific rights that various members (or groups of members) have to different tracts of land.

The merits of more formal systems of land administration and titling become apparent when economic and social activities increasingly take place within larger groups which are less cohesive, or across a larger number of communities. In such situation, traditional community authorities diminishes and the self-discipline imposed by the multi-faceted transactions among economic agents plays a lesser role. The larger number of agents involved introduces another difficulty for informal systems as information becomes “asymmetric” when the interacting agents are geographically more dispersed. The rules and laws which govern property rights become more formal, and require more formal land administration systems to implement them. Such systems are more accurate, and enable authorities (whether at the local or national level) the protection of property rights. If the security of tenure is enhanced, the incentives for investment are improved, allowing a greater and better productivity of the land resource. The realization of greater productivity is of benefit not only to the individuals or groups who possess the property rights, but to society as a whole.

Land and Property Valuation System, as a way of assessing the value of land and properties and to levy land taxes

Munro-Faure (1999) defines a “valuation system” as a system for identifying the absolute and relative worth of an asset. Various approaches have been used at different stages of economic development and under different economic systems. The most pervasive general approach is related to the market value of real estate, although there are many variations on this theme in practice, and their advocates enthusiastically develop diverse examples.

Once real estate is held by entities in a market economy context there are many reasons for its market valuation, because these values form the basis of decisions. These reasons reflect the structure and dynamics of the real estate market, and the framework in which it operates. Market values are fundamentally different from administratively assessed values. The reasons for market valuations may be broadly divided into those that are to fulfil market requirements, such as those for sale, purchase, rent, insurance, mortgage, inheritance and divorce, and those that are to fulfil requirements laid down for administrative purposes, such as taxation and compulsory purchase compensation. Valuations for different purposes may follow different formats, employ different criteria and methods, and result in different estimates of value.

In Poland valuations fulfilling market requirements are generally undertaken by private sector assessors acting on behalf of each of the parties interested in the transaction. In cases where public-sector-owned real estate is under consideration, an official valuation service i.e. valuation done by a licensed assessor must be done. Recently, however, particularly for mass appraisal for taxation purposes where questions of jurisdiction are under consideration, licensed assessors or specially trained officers from finance and tax departments on different levels have been required. Such “statutory” valuations will probably be open to appeal for the purpose of ensuring a fair hearing.

In some market economy oriented jurisdictions the state prescribes formal qualification requirements for assessors in the state valuation service, while assessors undertaking appraisals in the private sector are not necessarily constrained in this way. In Poland, where well established valuation professions exist, qualified persons perform all valuations where state and private property are involved. In some cases a formal institutional requirement exists, particularly for example in appraisals for mortgage security purposes.

Land Planning and a Land-Use Control System as tools for comprehensive and detailed land-use planning

In managing land resources and land use (urban and rural) certain legal powers are needed by governments to affect private property and private land use. In Poland we are aware of three important stages: planning, development/implementation of the planned land use, and maintenance or control to keep the given land use in proper order. Especially at the stage of implementing specific land use at the local level the availability of information from land administration is necessary in order to clarify for the individual land owner and land user which land use type is attributed to their land, and to give the government an opportunity to make legal decisions on the application of regulations. In many physical plans we see three possibilities for enforcement:

- building permits for the building and alteration of real estate (often issued together with an approval of building regulations according to the building laws),

- construction permits for other activities (often issued together with an approval of environmental regulations according to the environmental laws),
- land use regulations (which could be of a different nature, such as imposing the planned land use, or only prohibiting undesired land use unless there is a permit).

An appropriate local physical (zoning) plan should indicate very clearly and at an individual level what requirements have to be met to obtain permits. If local government desires a certain land use, and owners or users are not willing to co-operate expropriation can be used as a way to proceed. Here too, good land administration is indispensable because the impact of the expropriation and the involved individual land parcels should be very explicit (P.V.D. Molen, T.Osterberg, 1999).

A Land Development System for regulation and implementation of change

Both notions put into the title of this chapter means in fact almost the same: description of principles, rules and results of management of the Polish territory in such a way that sustainable development is assured, i.e. that good and improving conditions of life for the country's present citizens is achieved without reducing the standard of life for the next generations.

DiSano (1999) states: “Sustainable development is not just about *growing bigger*, but about *growing better*. This will require technological, organizational and human capital innovations aimed at enhancing our productivity through new technologies, better managerial methods and more efficient use of our natural resources, our land and other material imputes. This entails conscious decision making at national and sub-national levels involving extensive multi-stakeholder dialogue and consultations regarding the appropriate allocation of investment in physical capital, human capital and in environmental protection.

What this means in practice is smarter, more efficient development – a development, as was said above, that can lead to a more equitable distribution of economic well-being that can be sustained over many generations while maintaining the services and quality of the environment”.

Apart from general aspects of sustainability of development in general the development of the planned land use depends strongly on the institutional context. There are at least four major elements (P.V.D. Molen, T.Osterberg, 1999):

- the effectiveness of the local law making process,
- the existence of mechanisms to mobilize public support,
- the effectiveness of the management of the public sector,
- the existence of appeal procedures.

Generally speaking, development incorporates economic, social and environmental factors within a framework of institutional, political, legal and technological systems conducive to decision-making. These economic, social and environmental forces need to balance against each other to create an “intersection” conducive to sustainable development.

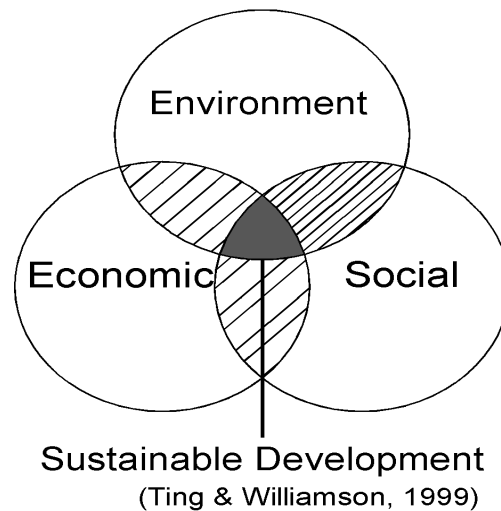


Figure 1: Balancing economic, environmental and social forces for Sustainable Development.

There are always tensions between these forces and they influence one another to varying degrees. The strongest tension is between the environment and economics. “Economics” is often treated as synonymous with “development”. There are numerous examples around the world, particularly in developing countries, where the force of economics dominating over the environment has created what has been described as “converging crises”

There is a dynamic relationship between these forces and there are various frameworks that have the potential to give expression to as well as obstruct their impact. These frameworks may be described as:

- institutional,
- legal,
- economic,
- political, and
- technological,

Munro-Faure (1999) states that the concept of sustainable development has attracted a great deal of attention since it was coined and popularized in a predominantly *environmental context* in the 1980s and 1990s by relevant United Nations and other initiatives, conferences and agendas. A key feature has been the recognition of a long-term vision which incorporates respect for the environmental limitations imposed by the earth’s physical constraints, together with a modification of the concept of development to incorporate the recognition of limited resources.

Since development is an activity at the core of the economy, these constraints may affect previously relatively unconstrained freedom to develop. Development is also an activity in which political interests are vitally concerned, as economic development, including its distribution, is a key factor in the relative attractions of different political philosophies. For example, the environmental movement has influenced people’s lifestyles to make them more “green”, which translates into behaviour such as the desire to recycle and to value forests and natural landscapes. This behaviour also has an economic dimension, such as purchasing choices that drive manufacturing, packaging and advertising behaviours.

What is a land market?

According to World Bank estimates, the *capital value* of real estate constitutes one-half to three-quarters of a nation's wealth: the less domestic capital and the less developed the economy, the higher this proportion is. What is true for the nation, may be also true for the family and individual. Real estate is therefore likely to be by far the largest class of asset in most economies. Its efficient use, development and management is one of the keys to successful economic development. The reason for allowing market forces to determine the ownership, the user and, usually subject to planning/zoning and environmental considerations, the use of land and buildings, is that *competition* and *the price mechanism* will prompt the *highest and economically most efficient use* of the key economic resource of land and buildings.

The functioning of the market must be straightforward, transparent and flexible to achieve this, not simply through buying and selling of absolute ownership, but also through a variety of leasing and *other less formal kinds of agreement*. A sound understanding of how real estate is managed in a market economy environment and a positive approach to this management are also required (P.Munro-Faure, 1999).

Selected components of the property development and land-use planning in Poland

Land tenure and right to land

The situation before World War II in today's former socialist countries was as follows:

1. political democracy and a market economy in Czechoslovakia, Poland, Hungary, and the Baltic states;
2. semi-feudal systems in Romania, the former Yugoslav states and Bulgaria;
3. communist dictatorship – in the Soviet state and in its republics.

After World War II and during the communist era the legal registry sector and cadastre was follows:

1. the traditional legal registry and cadastre, was functioning during “socialism” in Hungary, Czechoslovakia, Poland and Yugoslav states;
2. some kind legal of registry and cadastre was operated during the socialist era in Romania, Bulgaria, Albania;
3. no registry or cadastre during socialism in the majority of the former Soviet states.

Restoration of property rights and the right to land value in Poland

The process of restoring these two rights had in fact begun in Poland even under the socialist system. In the Constitution of the People's Republic of Poland (1952) property rights were set out as follows (B.Ney, A.Poczobutt-Odlanicki, 1998):

- “the nation's property assets ... are subject to special care on the part of the State and all citizens;
- on the basis of statutes in force, the People's Republic of Poland recognizes and protects individual ownership and inheritance rights as regards land, buildings and other means of production belonging to peasants, craftsmen and cottage-workers;
- each citizen of the People's Republic of Poland is obliged to guard the property of society and to enhance it as the unfringeable basis for the development of the State, the source of its wealth and the strength of the Homeland.”

Other legislation guaranteed the right to individual (personal) ownership and the right of inheritance.

The Act of April 29th 1985 on the Use of Land and the Expropriation of Real Estate

(amended 1985–1990) ushered in the following significant elements:

- a) the institution of reserve resources of State land for the future needs of urban and rural construction;
- b) the basing of land management on economic foundations, with compensation for the expropriation of real estate at last becoming a reality, and with the fee-based utilization of State land by all subjects introduced, along with fees for the use of land in non-compliance with its designation;
- c) the conferment upon developers of the right to the direct purchase of land from natural persons at free-market rates;
- d) the possibility for State land in rural areas to be sold to housing cooperatives and natural persons;
- e) the introduction of a new (administration-based) form of utilization of State land by State organizational units;
- f) the transfer to a national council at *voivodeship* (provincial) level of competences in relation to local land policy. (This referred in particular to the establishment of principles by which State land might be priced, the setting of fees for the perpetual use of land, the setting-out of principles for compensation in the event of the takeover of land for building or other purposes and decision making as regards the sale of State land in rural areas).

The process of the restoration of ownership rights was confirmed by a provision of the Constitution, amended in 1989, stating: *The Republic of Poland protects ownership and the right of inheritance, as well as extending total protection to personal property. Expropriation is only permissible in the public interest and with just compensation.*

The right to the value of land and other real estate has been expressed in a series of legal acts, as well as in practice. Symptomatic here is Article 36 of the Act of 7 July 1994 on Spatial Management, which concerns the material consequences of changes to the designation of real estate made in a local physical development plan. This Act entitles the owners of real estate to full compensation from state or local authority for any loss in the value of real estate caused by a resolution or change in a local plan. In the opposite instance, i.e. where a local plan causes an owner to gain from the increased value of real estate, that owner is, in the event of sale, obliged to share the profit with the municipality in such a way that the latter receives up to 30% of the increase in value.

Work is currently underway in the Ministry of Finance on a comprehensive statute and executive regulations to set out the legal and organizational bases for a new system of property taxes providing increased income for the municipality. This is expected to enshrine the principle that the level of this tax be proportional to the value of the real estate concerned.

The systemic transformation in Poland that began in the 1980s and became official in 1989 has clearly led to the development of a market economy. In the area of real estate, the consistent restoration of property rights and the right to the value of land has gained its main practical expression in the following elements:

- compliance with the law safeguarding ownership;
- the (true) introduction of the value of real estate, including land, into the economics of investment undertakings;
- the introduction of the market value of land and other real estate as the guiding value in the buying and selling of property assets, including in relations between the public-ownership (State or municipal) sectors and the private sector;
- the development of a property market which, although it varies greatly from region to region, is nevertheless, in the capital city at least, similar to those in Western metropolises;
- the development of three professions in the area of real estate: assessors, managers, and agents acting in the process of buying, selling or leasing of property”.

Regulation of ownership relations and the stabilisation of property ownership

This trend is confirmed in the Constitution of the Republic of Poland of 2 April 1997, which is now in force. Article 64 provides that:

1. *everyone shall have the right to ownership, other property rights in relation to assets and the right of succession;*
2. *everyone, on equal bases, shall receive legal protection regarding ownership, other property rights and the right of succession;*
3. *the right of ownership may only be limited by means of a statute and only to the extent that it does not violate the substance of such right.*

This provision of the Constitution is in accordance with Article 17 of the Universal Declaration of Human Rights adopted on December 10th 1948 in Paris, at the Third Session of the UN General Assembly, which declares that:

- 1) *everyone should have the right to own property alone as well as in association with others;*
- 2) *no one should be arbitrarily deprived of his or her property.*

In recent years, the process serving natural persons in the regulation of ownership relations and the stabilization of land ownership in Poland has involved:

- the identification of municipal ownership from within the previous “national” ownership;
- the privatization of State-owned enterprises;
- the removal of restrictions on the trade in agricultural property;
- an extension of the scope of sales of State treasury property;
- an extension of the use of State land by means of perpetual lease;
- the legalization of the purchase of State or municipal land by those utilizing it on the basis of a perpetual lease, or the conversion of rights to perpetual use into rights of ownership.

On 1 January 1998 a Statute on the conversion of a natural person’s right to perpetual use into the right of ownership entered into force. This applies to those persons who held perpetual leases prior to the announcement of the Statute, which in fact establishes conditions for the conversion that are more favourable than those set out in the Statute on the Administration of Real Estate (also in force from 1 January 1998 onwards).

Transition Policies – Instruments of Transition

According to Osskó and Hopper (1999) there are a number of instruments which can be used to transfer land and real estate property from the public to private sector, including restitution of the property, compensation, and privatization. In all cases they require the establishment of explicit legislation, and the appointment of an executive body specifically empowered to carry out the land redistribution activity. Restitution and compensation normally involve the establishment of local committees who make decisions regarding cases. The responsibility for the associated technical activities must be assigned, and rules determined for how to deal with more complex cases. The legislation must consider under what conditions land and property can be restituted, how compensation can be assessed, and what terms and conditions shall apply to land grants or privatization of assets. It is also necessary to consider the appeal mechanisms, and responsibilities and procedures such as how claims should be submitted, who is responsible for preparing them, who pays the costs of preparation, and who will decide in different cases. It is also necessary to consider what happens in the case of several claimants, or no claimants, and also when the cadastre and the land registration records are to be updated. In Poland, like in other countries in transition, all the three means of land rights regulations are countered.

Restitution

This instrument is used to return land and property to an earlier owner, whose ownership right was removed, or curtailed by Acts or Decrees issued by previous governments. Key problems include:

- technical problems, where there are differences between the land units recorded in the old registers/cadastral, and the current situation on the ground;
- the land unit to be returned to the former owner may be contained inside a larger unit and may have no public access, so it may not be possible to give back the land unit in such a situation;
- the land may be returned as co-owned unit (undivided ownership) and this may result in difficulties with further disposal of the land.

The process of restitution may also lead to increased fragmentation of the land, as the restituted plots are often significantly smaller than the previous usage land blocks. Where it is in possible to reconstitute a parcel of land, then an acceptable alternative procedure for restitution in kind must be provided for.

Compensation

This instrument is used where claimants are to be compensated for past injustice, or where land claimed in restitution cannot be returned for some reason.

Complex Compensation. The process of compensation for past injustice involves rules concerning the claim followed by the issue of compensation coupons or vouchers. This may or may not involve a bidding process, through which compensation vouchers can be converted to land. This kind of compensation may be carried out over a larger area and may involve a large number of claimants. Where bidding is used, it is the number of bidders and the collective value of their bids that determines the new land pattern. As a result, this is likely to be highly fragmented.

Simple Compensation or restitution in kind. In this case compensation may involve direct allocation of alternative land due to the non-availability of a land parcel claimed by restitution. In this case a reserve fund of land could be used by the government, pending resolution of all outstanding restitution claims. The main difficulty here is associated with the estimating the value of the original asset, the level of compensation offered, and potential disagreement as to the suitability of the compensation land offered. This kind of compensation is usually executed on a case by case basis, and is connected with restitution in kind.

Privatization

This is used to transfer assets by sale from social or state ownership to the private sector. The privatization of state or publicly-owned enterprises often involves real estate assets and the mechanism usually involves either management buy-out, voucher privatization, public tender or preferred investor. Much has been written about the merits of the various privatization methods, all of which have their problems.

Selected figures and facts illustrating property development and land use planning in Poland

Although rights to land and their registration in Poland is properly regulated, there are at least two weak points to the system:

- the procedure of title or transfer deed registration in court is too lengthy; in some cities and cases it may take up to 2 years time;

- fees to be paid concerning the land tenure change procedure are both too high and too numerous.

Land-use planning and control under the acts mentioned previously in the paper, creates a strong basis for the system and the procedures stemming from them are well and correctly observed. A weak point of the system is the almost total lack of statistics related to changes in land use – both legal and illegal (formal or informal).

The helpful system of registration of them creates *the cadastre*, where every existing and final change in land use is registered and presented on a cadastral map. The cadastral summary of the whole country includes all types of land use and in this way characterizes the spatial aspect of property development in Poland. Data concerning the changing situation for years 1997 and 1998 are presented in Table 1:

Year	urbanized areas				green or recreational area		area covered by			
	built up		not (yet) built up				roads		railways	
1997	883060		74827		46759		849493		120017	
1998	896543		71543		67809		845325		107527	
	ha	%	ha	%	ha	%	ha	%	ha	%
Δ	+13483	15	-3284	4	+21050	45	-4168	15	-12490	10

Table 1. Changes in land use in Poland 1997-98.

Another feature characterizing the property development process in Poland is the number of building permits issued (Table 2):

year (1 st half)	total number	permission given for:						
		detached houses	multi-dwelling buildings	second houses	public purposes (general)	agriculture production	industrial	other (including infrastructure)
1998	128603	32094	778	1966	1886	18.455	4835	68489
1999	93550	29760	834	1706	2260	12.195	4340	42455

Table 2. Building permits issued in Poland 1998-99.

From Table 2 the general conclusion can be drawn that building activity has diminished in this period, with the exception of flats and buildings for public purposes.

The land market in Poland, although still young, is already quite well developed. Estimating its activity is not easy because the main international assessment factor i.e. total area of real estate yearly changing owners is not available in Poland. But the number of land transfer transactions taking place every year is registered. For the years 1990–1998 the figures are presented in Table 3:

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998
number of deeds	446043	403772	408796	504741	612973	638488	646001	670066	633535

Table 3. Land transfer transactions in Poland 1990-98. (Source: Kałkowski (1999))

As one can see – the number of deeds is still growing with the exception of year 1998.

The regional distribution of the phenomenon is presented in Figure 2.

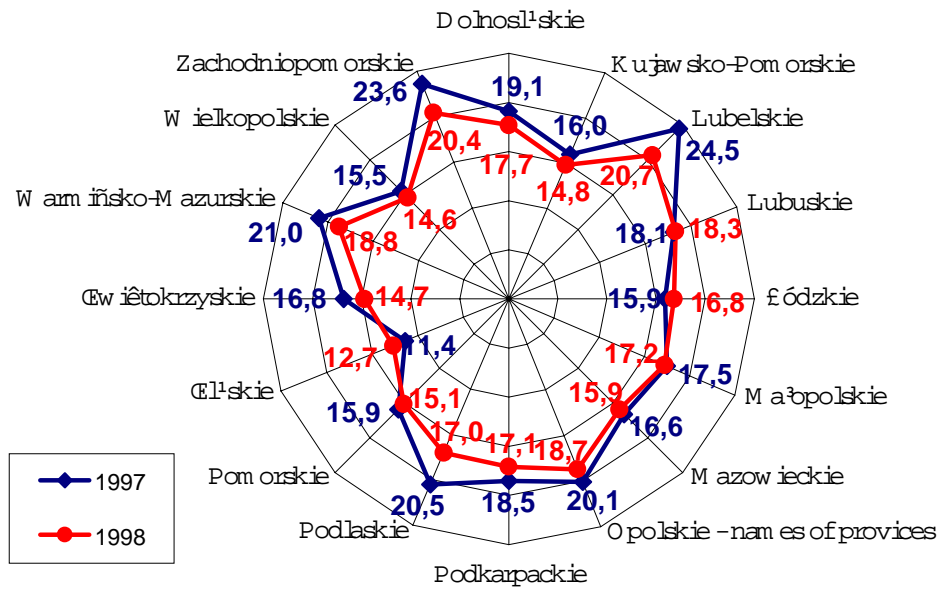


Figure 2. The number of land market transactions per 1000 of inhabitants in 1997 and 1998 (average for Poland adequately 17,3 and 16,4). (Source: Kałkowski (1999))

There are some expectations concerning development of land market in Poland. One of them is based on the assumption that its development will be related to the development of the GNP. Using extrapolation, this would mean an increase of number of transaction as shown below:

- 5,1 % in 1999
 - 5,3 % in 2000
 - 5,3 % in 2001
- (Najniger – 1999)

The expected increase for the longer term is shown in Figure 3.

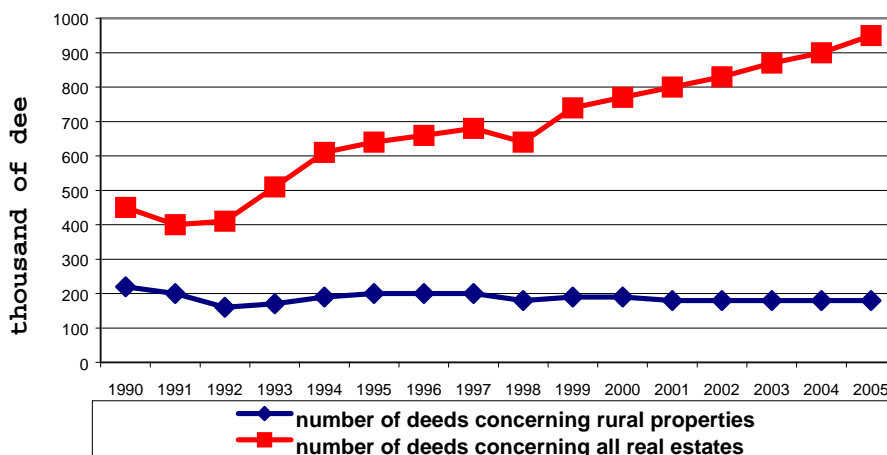


Figure 3. Prognosis of transactions number on Polish Land Market. (Source: Kałkowski (1999))

The so called “Warsaw phenomenon” is a unique case in the Polish land market. Almost half of the property transactions every year happen in Warsaw, which is the location of half of the offices, wholesale and retail buildings in Poland.

Some features characterising the property market and investment in Warsaw are described below. The last quarter of 1998 saw price increases as far as apartments in higher segment of primary market is concerned. Many projects which could without exaggeration be called exclusive, were submitted to the market. Round-the-clock security, swimming pools or sauna are already considered as standard. The more attractive the properties offered are, the higher the prices. For one square meter of apartment in a building of this standard one must pay in Warsaw between USD 1,150 and 1,500 and the penthouse apartments (usually of an even higher standard) reach prices of USD 1,700 per m². Despite the high prices and the fact that there is no possibility of benefitting from tax allowances, demand for this kind of properties remains high. 80% of buyers consider such a property as a capital or rental investment. In the lower sector of the primary market price increases were practically imperceptible. The price of one m² remained at the level of PLN 2,500 (USD 600).

The location is usually defined in terms of distance of the property from the city centre (especially in the case of service centres, offices, and others). In big cities however, the distance is measured not in kilometres but rather in terms of the time taken to cover the distance. To put it simply, the shorter the travel time, the higher the value of the property. When appraising real estate, however (especially for banks, when the property is to be taken as security of a long-term credit), or for making investments, we should take into consideration not only the present condition, but also the future perspectives of a given area. (The rule that everything built will eventually be leased no longer applies in Warsaw. This is indicated by a number of failed investments undertaken without prior market analysis). Such perspectives are connected with both present and planned infrastructure. The influence of growing infrastructure on real estate value increase is well illustrated by the situation observed in Ursynów district when the first subway route was opened (bringing the district closer to the city centre). Greater demand for real estate properties, that were viewed previously as unattractive because of their location, made prices rise suddenly by 15% in case of apartments or even by 30% in case of building sites.

Conclusions

Following the concept of Land Market Indicators proposed by Dale and Baldwin (1998), the rules below present a method of assessing the efficiency and effectiveness of property development and land use planning in Poland.

Elements that characterise an efficient and effective Property Development and Land Use Planning Indicators (PDLUPI).
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1. <u>Land tenure – land policy and titles registration</u>
--

- | |
|--|
| <ol style="list-style-type: none">1. Legal entities and all physical persons may own properties with equal rights.2. Institutional structures are secure with well-regulated activities.3. Recording and registering systems are soundly implemented.4. Sound legal basis for ownership and trading of property rights exists.5. Land and buildings can be traded and leased easily.6. No risk of unjustified expropriation.7. The quality of data held by regulators is good. |
|--|

<p>2. <u>Land valuation</u></p> <ol style="list-style-type: none"> 1. Valuation is clear and well understood, based mainly on market prices. 2. Valuations are accepted and used as basis for calculation of asset value. 3. The mechanism for offering real property for sale is clear. 4. The quality of data used by assessors is good.
<p>3. <u>Land use planning</u></p> <ol style="list-style-type: none"> 1. Clear agricultural and urban land management policy. 2. Clear policy in planning, environment and local administration. 3. Clearly elaborated and understood planning and zoning controls. 4. Clear policy and clearly understood regulating authorities, a favourable environment for investment and strong motivation for individuals. 5. Clear policy about information management, and the protection of investments.
<p>4. <u>Land development</u></p> <ol style="list-style-type: none"> 1. Land and buildings can be used as a mortgage (credit) security. 2. Tax implications for investments are clear. 3. Financing for investments exists and venture capital is available. 4. Large corporate players exist (including investment funds, pension funds). 5. The construction sector is established and healthy. 6. Mechanisms exist to create new assets where needed.
<p>5. <u>Land market</u></p> <ol style="list-style-type: none"> 1. Landowners and tenants exist and represent a range of different stakeholders. 2. There is a strong private sector. 3. All government held land is basically held for public purpose or social housing. 4. There is a variety of assets available, apartments, residences, offices, commercial buildings and agricultural land holdings. 5. Information on real assets and other elements of land market infrastructure available for sale is widely known and reliable.

Table 4. Elements that characterise an efficient and effective Property Development and Land Use Planning Indicators (PDLUPI).

Score	Criteria
0	There is no evidence at all that this matter is being addressed.
1	There is minimal evidence that the stated feature is present, but it is not clear that the requested functionality is provided.
2	There are some major problems, the system cannot be said to work adequately, but the basic components are in place or being developed.
3	The functionality is basically provided. There are some known problems, but things basically work.
4	The system works smoothly and could be considered consistent with what one would find in another market economy.
5	The feature or functionality offer performance levels consistent with what required for EU membership and with what one would expect in an EU member state and there are no outstanding or fundamental problems known.

Table 5. Scoring and criteria for property development and land use planning. (Source: Dale and Baldwin (1998))

An example of detailed consideration of the land valuation as a part of scoring the land use and property development is described in table 6.

	COMMAND ECONOMY		TRANSITION ECONOMY		MARKET ECONOMY		EU
score	< 1.5	1.5 – 1.90	2.0 – 2.4	2.5 – 2.9	3.0 – 3.4	3.5 – 3.9	> 4.0
Land Valuation	Absence of any accepted methodology for market based valuations. No body responsible for valuation	There is a valuation methodology but little accurate and up to date data is available. Valuation may not be connected to market prices.	Valuations are tied to market prices but results are unreliable due to lack of data from low volumes of transactions. No systematic reporting.	Systematic valuation records being complied. Valuations are seen as necessary and able to support market value. Real Estate prices volatile.	Valuation system able to support property tax and market values. Regulatory procedures are in place to support data quality.	Secure, reliable system supporting land transactions and fair and efficient property tax collection.	Complete valuation data sets available that can be linked to other land administration records. Significant private sector involvement.
given country (area) position	-	-	-	Polish case	-	-	-

Table 6. An example of detailed consideration of the land valuation as a part of scoring the land use and property development. (Source: Dale and Baldwin (1998))

The final results of assessment of the system of property development for Poland are presented in Table 7.

assessed elements	score	% of max
land tenure - land policy and o titles registration	2.8	56
land valuation	3.0	60
land use planning	3.1	62
land development	2.6	52
land market	2.8	56
Overall assessment	2.9	58

Table 7. Final results of assessment system of property development for Poland.

The other four of the elements of PDLUPI can also be evaluated in this way, and the results place Poland squarely in the position of transition economy.

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Critical Remarks on the Polish System of Spatial Planning

by Piotr Korcelli and Janusz Krukowski¹

The system of spatial planning and policy: an overview

The system of spatial planning in Poland is defined in the Spatial (Physical) Development Act of 7 July 1994. This Act was recently amended as a consequence of the introduction of the general Act of Competencies of Public Administration (of 24 July 1998), to correspond with provisions of the administrative reform which has come in force on 1 January 1999. The reform involved a change from a two-tier to a three-tier pattern of spatial units of public administration, as well as an extension of self-governance from the local to a subregional and a regional level.

According to the law, the practice of planning and physical development should comply, at all spatial levels, with principles of spatial order (and the related urban planning standards). It should also pay due respect to architectural and landscape values, the environmental protection, the public health and safety standards (including special provisions for disabled persons), and the cultural heritage. At the same time, spatial planning and development has to respect the economic value of land, the ownership rights and national security. At each of the public administration levels specific planning and policy documents are to be elaborated. One should emphasise at this point that basic competencies concerning land-use change, i.e. land development, including those related to the allocation of public investments, rest at the local, i.e. the *gmina* (township, community) level, and are the task of local self-government.

(A) The state level

The main governmental document on spatial planning is “The Concept of National Physical Development Policy”, also referred to as “The Spatial Policy Concept”. While it replaces the earlier “long – term plans of physical development”, the Concept has different functions from those of the plans. Its character is basically indicative, in accord with the principles of market economy with its multitude of actors and decision-makers, and the role of territorial self-government is considerable. The Concept identifies natural, cultural, social and economic determinants of spatial development and defines general development goals as well as more specific policy objectives. The document should provide a link between development programmes of individual regions (*voivodships*) with the policies of the state, both general and sectoral. Public participation is a crucial element in the process of elaboration of the Concept which should become a tool of information exchange, education, negotiation, and co-ordination of various aspects of spatial policy of the State.

The Spatial Policy Concept has been elaborated by the Governmental Centre for Strategic Studies and approved by the Council of Ministers on 5 October 1999. Ultimately, the document was submitted for acceptance by the Polish parliament, the *Sejm*. The same procedure applies to the preparation and approval of annual reports on the state of spatial economy.

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Parallel to the preparation of the Spatial Policy Concept, individual Ministers should elaborate sectoral programmes of governmental tasks. Such programmes are to be devised in accord with the Concept, and with the self-governmental tasks conducted at the voivodship level, as well as other regional planning documents.

(B) The regional (voivodship) and sub-regional (*poviat*) level

The following official planning documents are to be created at the voivodship level

- the Development Strategy,
- the Plan of Physical Development,
- the Long-term Development Programme, and
- the Priorities of Transnational Co-operation (this applies to those voivodships that are situated along the state boundaries).

The above documents should comply with the provisions of the Spatial Policy Concept as well as with the content of similar documents elaborated by neighbouring voivodships.

At the sub-regional (*poviat*) level, only studies and analyses which are of non-obligatory character can be elaborated. Hence the role of *poviats* – the intermediate level units established at the beginning of 1999 – is much smaller in the domain of spatial planning compared to the role of voivodships and the *gmina*, i.e. the local communities.

It should be emphasised that all the planning documents pertaining to the regional level concern the self-governmental administration. None of them create “a regional law”; they only provide “strong guidelines” for spatial planning.

(C) The local *gmina* (community) level

Two kinds of planning documents are elaborated at this level:

- the Study of Determinants and Directions of the Local Space Economy, and
- the Local Plan of Physical Development.

Depending on local circumstances, the latter document may cover the whole *gmina* or only a part of its territory. The Plan is approved by the *gmina* council, as are Plan amendments. The Local Plan is the only document by which the local law is established. In case the *voivod* (i.e. representative of the State at the regional level) or one of the Ministers intends to introduce changes in the Local Plan, such changes need to be negotiated with the local self-governmental authority.

Limitations to the operation of the system

Although the present system of spatial planning, as briefly described above, is rather comprehensive, its functioning is generally considered to be less than satisfactory. This is due largely to two factors: instability of the legal provisions that regulate land-use change and property development, and limitations in the scope of the market and its instability. In reality, these two factors are strongly intertwined, as the specific legal status of individual areas, or of individual types of land use, can and frequently does cause them to be excluded from the market, hence restricting the scope of the market operations. Our discussion of these questions, presented below, is in fact illustrative rather than exhaustive.

(A) Legal instabilities

The general legal provisions and instruments that regulate land and property development in Poland tend to be short-lived. This is not only due to imperfections in the law, but also to “exogenous” factors. Thus, the introduction of the new spatial pattern of public administration in 1999 has enforced changes in the Spatial Planning and Physical Development Act of

1994. Another similar case is the vexing administrative status of Poland's capital city. Unlike other large cities in Poland which correspond to single *gmina*, (and since 1999 also constitute individual *urban powiats*), Warsaw represents a constellation of independent *gmina* – 7 from 1991 to 1994, when introduction of “the metropolitan concept” led to further division of the city into 11 *gmina*, with the central one occupying one-third of the total territory, and including two-thirds of total population. Paradoxically, the city as a whole corresponds to a *landed powiat*. This pattern, which is definitely out of balance and inefficient, is about to be changed again. The solutions considered, however, each supported by vocal political interests, are difficult to reconcile. One proposal is namely to integrate the city territory into one *gmina* (as is the case in Vienna, for example), while an alternative one goes in the opposite direction – splitting the central *gmina* into seven smaller ones, which would lead to an increase of the total number of *gmina* within the city boundaries from 11 to 17.

Application of legal provisions and instruments generates both positive and negative experiences. If there are many of the latter, this can lead to proposals concerning amendments to the existing law or its replacement by a new law. With respect to the 1994 Act both developments are now considered. In fact, a draft of a new Planning and Physical Development Act has been intensely debated recently among planners and politicians, as well as representatives of scientific institutions in Poland. Its proponents point at the following novel elements contained in the proposal.

Firstly, the proposed version introduces a transition mechanism in order to counterbalance the effects of the expiration (initially by the end of 2000; recently the deadline extended for two more years), of all physical development plans prepared before 1995. This mechanism consists in more efficient procedures to be followed when physical development plans are non-existent or not officially valid.

Secondly, the draft under discussion offers a rather straightforward way of integrating public investments into the spatial planning and development process. This constitutes a major problem in the application of the existing law.

Thirdly, the proposed law introduces notions that reflect specific and important characteristics of the contemporary space economy which cannot be strictly contained within spatial administrative units. These notions include: “metropolitan areas” and “problem areas”.

Fourthly, there is an attempt to standardise and to simplify terminology and to bring the procedures followed into accord with legislation in EU member countries. One example of this is the rule of “good neighbourhood” which restricts unjustified though explicitly not prohibited land uses in those parts of the local communities which are not covered by physical development plans.

(B) Market instabilities

Restitution of market economy rules in Poland in 1989, after four and a half decades of a “socialist” or “centrally-planned economy”, could not be an instantaneous event. This pertains to land use and property markets to an equal if not a stronger measure than to the other segments of the economy.

Unclear ownership status, both of land and building stock, a sequel of World War II and a result of subsequent chains of allocation, expropriation, as well as development decisions, has led to a situation in which large tracts of both built-up and vacant urban land are practically excluded from the property market. This is so in particular in the cities which suffered large-scale war destruction, but also in those that experienced extensive industrialisation during the 1950s and the 1970s.

Perhaps the most important obstacle that hinders the formation of an orderly market for urban

land and real estate is the lack of a comprehensive reprivatization law. Many subsequent projects of the respective Acts have been advanced, but so far they have all stalled in the parliament. This lack of political support towards a general reprivatization scheme is attributed mostly to budgetary constraints (the cost of reprivatization), but it may also reflect some vested interests of the present users of the property. Although some reprivatization (for example, restitution of the ownership of individual buildings) has actually been occurring, it is both piecemeal and haphazard, most often based upon individual court rulings.

These problems are especially evident in the city of Warsaw. In 1945 all land within the pre-war city limits, the total of 47 km², became communalized on the basis of a presidential decree. This area, which now represents the central part of the city, was the scene of both large scale reconstruction and a considerable amount of new construction during subsequent decades. After 1989 it became a prime target for new commercial building activity. However, its unsettled, and to some extent questionable ownership status, hinders the development and redevelopment process. This land is now subject to lease by the local community (gmina), but not to sale.

All this results in a spatially dispersed and indeed haphazard pattern of allocation of new investments. It also deters many prospective investors who choose peripheral locations instead – they are less costly and also considered safer from the point of view of their legal status. Thus, the partial functioning of the land market is responsible for much of the urban sprawl which has become a characteristic of the metropolitan area of Warsaw during the 1990s.

Another problem concerning the urban land is that some of its users enjoy an especially privileged status. This, among other things, is the case with much of the industrial land. Its large tracts, usually characterised by good accessibility and equipped with communal technical infrastructure, rest as “eternal lease” (usufruct) in the hands of the former state-owned enterprises. Many of these, either privatised or still in the public sector, acquire a substantial part of their income from subletting the land and buildings to secondary, typically commercial users. Although the process of land-use transition does actually take place, its scope and pace are considerably limited owing to such special legal arrangements.

Finally, one should refer to land speculation as another major aspect of market instability. The early phase of the economic transition, at least until 1995, took place within a strongly inflationary environment, bringing uncertainty and price surges. The inflationary expectations, together with the weak position of the domestic currency have led to fluctuations in both the demand for urban land and its supply.

Prospects

The list of factors responsible for the partial functioning of the urban land and real estate market in Poland could be much further extended. Such limitations are in fact present in all market economies. Special legal provisions and policies concerning housing co-operatives and associations of allotment gardening, regulations pertaining to the level of rents in both the public and private housing sector, and effects of anticipated introduction of a comprehensive taxation based upon property values; all these questions deserve an extended treatment. This, however, would go beyond the aims of this brief paper which attempts to illustrate, rather than to discuss in detail, the strong and weak sides of the market for urban land and real property as well as its planning and policy ramifications.

In spite of the inertia of those structures and planning practices rooted in the past, the new system of spatial planning procedures has a visible impact upon the landscape of Polish cities and smaller communities. At local level interest is growing in the elaboration and in the content of the local development plans. Such plans, now available for between 40-60% of all the self-governmental units, have become the basic documents in the practice of planning and the development activity.

Property Development and the Land Market in Warsaw – A Challenge for Urban Planning

by Alina Muzioł-Węclawowicz¹

Introduction

Warsaw, the capital of Poland and one of the larger cities of Central and Eastern Europe, is in a transitional stage of development. The city's developmental process is strongly affected by its heritage. New methods and goals for urban planning brought about by the restitution of the city's territorial self-government and the return to market-economy principles are being introduced under difficult conditions. However, development under the new conditions is having a clearly visible effect – the city is succeeding in changing its appearance and in attracting new investment. In addition to typical, modern projects for buildings with office, service, commercial, and residential space, some more unique investments are also being made: the reconstruction of pre-war public buildings, large projects covering entire areas (such as the University Library in Powiśle, which marks the beginning of a new university campus area), individual investments located in prestigious locations (such as the modern Supreme Court building in the vicinity of the Warsaw Old Town). On the other hand, there are also many transitional projects as well, most often involving temporary commercial constructions of low aesthetic value. Unfortunately, most of the current conditions for the city's development hamper the dynamic transformation of its economy. Only a few factors facilitate the reforms, i.e. Warsaw's status as the capital city, the interest shown by investors, and the relatively large area of undeveloped land within the centre of the city.

Warsaw developed dynamically during its period as a “socialist city”, but experienced many problems along the way. The primary characteristics of development in those earlier times were:

- a shortage of the basic services and technical infrastructure,
- spatial planning not based on economic principles,
- low standard of new investments in housing, commerce, services, offices,
- lack of concern for maintaining the individual style of the city.

Many of these negative aspects were caused by the primacy of state ownership of land and the lack of economic mechanisms for the evaluation and appraisal of land value. This led to inefficient utilisation of land resources and fragmented the zoning structure of the city. The location of large housing projects on the edges of existing development raised the functional costs of the city and created monolithic housing areas. The large housing estates were not very hospitable for their inhabitants and complicated daily life – new estates suffered from the lack of social infrastructure, services, retailers, etc.

Contemporary development in Warsaw, after some ten years of economic and social transformations, leaves much to be desired. Conditions shaping the directions of development in the capital's real estate market have been the subject of detailed analysis. Urban planners have often discussed the “wild” development of the city, and complain that the modern, uniform architectural projects destroy the city's individual character. The opinions held by the city's inhabitants, however, are divided. It has not yet become fashionable to live in old but

¹ National Housing Fund, Bank of National Economy, Warsaw.

modernised buildings in traditional neighbourhoods². The older areas of the city, whether they are the few surviving relics of the past or areas painstakingly reconstructed after World War II, are of great sentimental value for the city's inhabitants. Living in brick buildings, several stories high, has always been considered more desirable than in pre-fabricated large estates. A majority of Varsovians are satisfied with the new investments in their city, believing that they give the city a modern, European look.

One serious factor which hampers the quality of life in the city is its lack of proper infrastructure, especially in the fields of transportation and environmental protection. Warsaw is plagued by traffic jams, and the number of cars continues to rise. Road investment projects drag on and on for years. Public transport is not efficient enough to compete with private automobiles³. The city continues to utilise temporary solutions for issues of waste management.

Some specifics on Warsaw

As a regional metropolis, Warsaw has seen its status within the hierarchy of European cities improve – it is now listed as a city which “is acquiring” or “should acquire” the rank of a European centre, just as Prague and Budapest. It is worth noting that Warsaw's position in the hierarchy is due in large part to its potential (its prospects for development, the economic and demographic resources of the country, its geographical location). Industry analyses, on such topics as attractiveness for tourism, rank Warsaw after Prague, Vienna and Budapest.

Among Polish cities, Warsaw is considered the most attractive for investment, and foreign investors in many industries begin their expansion into the Polish market in the capital. Only a few industrial sectors have initiated their presence elsewhere, for example, a few commercial chains which have implemented a strategy of regional expansion (locating in the south of the country or along its western border). New domestic businesses, such as private institutions of higher education, consulting firms, and financial institutions, are also concentrated in Warsaw. However, the distance between Warsaw and other prosperous areas, i.e. other large cities, also affected by the economic boom and social transformation is not very great, and Poland is developing in a polycentric way. There are different scenarios for success in the process of transformation, whereas the reasons and effects of failure are the very similar in the regions lagging behind in the process of transformation.

The capital city of Warsaw has a complex structure of self-government: it is an obligatory communal association of 11 boroughs (*gmina*), of which the largest, “Warszawa Centrum” consists of 7 self-governing districts with significant jurisdiction. In addition, the boundaries of the city coincide with the county (*powiat*) of Warsaw, i.e. next level of regional government above the borough level.

As of 31 December 1998, Warsaw had a population of 1,618,500 inhabitants and covered an area of 494.3 square kilometres. The demographic characteristics of the individual Warsaw boroughs are presented in Table 1 below.

² With the exception of the Old Town District.

³ It should suffice to note that Warsaw has been in the process of constructing its underground system for decades. Attempts prior to World War II were not successful, nor were they successful during the 1950s, years of a flourishing planned economy and great investments. The opening of the first section of the first underground line at the beginning of the 1990s can hardly be considered a success, either, considering the pace of the work (one station every two years).

Borough	Total area in km ²	Population		Balance of mi- gration	Natural growth
		in thousands	per km ²	per 1000 inhabitants	
OVERALL	494.3	1618.5	3274	1.0	-4.2
Centrum	122.3	918.3	7509	-2.7	-5.3
Bemowo	25.0	100.6	4024	1.5	0.2
Białołęka	73.0	37.8	517	26.2	-3.6
Bielany	32.3	145.4	4501	-2.8	-4.7
Rembertów	19.3	24.4	1264	20.5	-3.8
Targówek	24.2	126.7	5237	-1.3	-4.8
Ursus	9.4	43.3	4609	5.9	-0.5
Ursynów	43.8	113.8	2597	11.7	-0.3
Wawer	79.7	58.6	735	15.2	-5.5
Wilanów	36.7	12.4	338	2.6	-0.7
Włochy	28.6	37.2	1301	17.0	-1.1

Table 1. Population and population trends in Warsaw, as of 31 Dec. 1998 (Source: The Warsaw Housing Report)

The population of Warsaw has been falling at a slight but systematic rate. Attractive boroughs in the vicinity of the city, such as Piaseczno, Kobyłka, Wesoła, Sulejówek, Marki, Nadarzyn, and Lesznowola, are all witnessing a marked growth in their populations, as they receive population moving away from Warsaw in search of better living conditions.

The housing situation in Warsaw is difficult. In contrast with other large cities in the country, flats here are relatively small and fairly well equipped technically, but many buildings are in need of repairs, especially those administered by local councils and condominiums. For many years prices in the housing construction market in the city have been among the highest in Poland. This phenomenon is caused by the segmentation of the market. Further information on the state of housing in Warsaw is presented in Table 2 below.

Description	1994	1998
Flats	611081	629174
Flats per 1000 inhabitants	372	389
Average usable space in square metres	48.4	49.8
Types of flat ownership, in %:	100.0	100.0
co-operatives	54.7	49.7
borough councils	26.0	20.9
employers	3.5	10.1
private	15.8	19.1
others	-	0.2
Housing construction completed during the year (number of dwellings)	4770	6813

Types of ownership, new flats made available for use, in %:	100.0	100.0
co-operatives	72.4	66.5
borough councils	1.5	2.1
employers	12.1	1.7
private	11.1	12.6
other	2.9	17.1
New flats made available per 1000 new marriages	608	869
Average usable area of new flats made available for use	68.7	89.8
Average cost estimate for new flats in PLN per m ² in the fourth quarter of the year (not including cost of land and utilities)	1066	2305
Ratio of the average monthly salary to the cost of 1 m ² of a new flat (not including cost of land and utilities)	0.65	0.79

Table 2. *The housing situation in Warsaw. (Source: The Warsaw Housing Report.)*

Land use and the spatial structure of the city

The territory of Warsaw is dominated by private land ownership – comprising 32.7%, or 16.1 thousand hectares⁴. A somewhat lower percentage of the land is owned by the State Treasury – 29.1%, or 14.4 thousand hectares. Communally-owned lands represent 15.4%, or 7.6 thousand hectares. This last figure includes 2% or 1000 hectares owned by the City of Warsaw (of which 911 hectares were gained by way of “communalisation” – i.e. expropriation by the state – and 89 were acquired for municipal investments), with the remainder of communally-owned lands belonging to the individual Warsaw boroughs. The amount of land communally-owned varies within the various boroughs, from 35.6% in the case of the “Warszawa Centrum” borough⁵ (central district) down to only 0.7% in Wilanów (peripheral, small, wealthy residential borough). The rest of the land in the city is taken up by forests, public roads, transportation areas, and other types of land, which comprise a total of 22.8% of the city’s area.

The majority of communally-owned land is held in perpetual usufruct, either by legal entities or individuals. Available land which could be the subject of real estate market transactions represents only a small resource. According to expert analyses, by the year 2020 Warsaw will require some 4800 hectares for investment, of which 2200 hectares will be newly-developed areas.

The most significant types of land-use within the city are residential housing, agricultural land, meadows, forests and forested wasteland. The percentages of selected significant forms of land-use in the overall breakdown are as follows:

- service functions of metropolitan area significance 0.19%
- service functions of national, regional, and municipal significance 4.25%
- multi-family housing 11.89%
- single-family housing 15.87%
- production facilities, warehousing, and storage 4.42%
- parks, lawns, squares 2.01%
- rail, air, and water transport facilities 4.07%

⁴ Data from the Department of Surveying and Land Management of the Warsaw Voivodeship Office, reflecting the situation as of 1 Jan. 1997.

- agricultural land, meadows, pastures, and orchards 22.61%
- forests and forested wasteland 15.10%
- undeveloped areas 3.14%

The current urban structure of Warsaw is characterised by:

- extensive use of grounds for building,
- the segregation of non-conflicting functions,
- domination of transportation and traffic,
- underdevelopment of the right-bank part of the city.

The authors of a study of the directions and conditions of property development in Warsaw highlighted several categories of zones and strategic strips⁶:

1. Category I: zones and strips of land of particular natural and scenic value: the Vistula valley and the Warsaw Scarp,
2. Category II: zones and bands of particular historical, cultural, or architectural value: the fragments of historic Warsaw reconstructed after the war, palaces and churches,
3. Category III: zones requiring structural transformation and modernisation with regards to the existing investments: post-industrial and railway areas⁷, multi-family housing developments,
4. Category IV: zones marked for future development⁸.

It is worth stressing that these areas involve huge investment potential⁹. In some cases they are completely undeveloped with good access to infrastructure, and all of them are located in the central part of the city – some even in the very centre itself.

The development of the Warsaw real estate market

The expectations of urban planners are being exceeded by the actual investment projects being implemented and those being planned. There are many controversies concerning specific architectural solutions, especially concerning the introduction of new investments into the old (older) fabric of the city, and the expansion of supermarket chains.

Private investments, primarily foreign investments, are concentrated in the Centrum borough. Most projects involve the construction of new office buildings. Prime construction sites are sold at a price of EUR¹⁰ 2.5 thousand per m². The prices for plots of land are rising substan-

⁶ “Strategy for the development of Warsaw through the year 2010”, a synthesis, 1998.

⁷ The process of restructuring (involving a change of function) has already begun in post-industrial areas in central parts of the city - in many places the change in function simply takes place, without a specific plan for development.

⁸ The Warsaw Development Strategy lists a number of areas: downtown Warsaw, the 10th Anniversary Stadium, the Praga Harbour, Central Praga, the Żerań Harbour, the Okęcie Airport area, the eastern side of Żwirki Wigury Street, the Bemowo Airport, the Siekierki bend of the Vistula, Gdańsk Station, the Marymont area on the Vistula, Wyczółki, the Southern Station, the Powiśle Region, the Square of Europe (the intersection of the three streets: Sobieskiego, Sikorskiego, Witosa). In the Study of Conditions and Directions for Spatial Development a smaller number of strategic areas are mentioned: the Poznań Gate, the Żerań Harbour, the Siekierki bend of the Vistula, the Southern Station, Wilanów Center, Targówek district, Central Praga, Gdańsk Station, the Downtown, the New Drawing-room of the City, Łopuszańska street.

⁹ Municipal investment in Warsaw alone are considerable: - in the year 2000 the City of Warsaw and the "Warsaw Centrum" borough will spend PLN 841million (EUR 192.5 million) and PLN 693 million (EUR 158.6 million) respectively, which accounts for 38.9% and 33.8% of their respective budgets. The largest municipal investment projects are as follows: the continued construction of the underground (PLN 210 million), road investments – PLN 580 million, the northern sewage treatment plant (PLN 76 million), the waste recycling facility (PLN 22 million), and the purchase of municipal buses.

¹⁰ The average exchange rate of the Polish złoty (PLN) as of 18 Nov. 1999 was: 1 EURO = 4.37 PLN,

tially, for all types of land. Prices for the land in the centre of the city are increasing faster than in other parts. The price of industrial land (at approx. EUR 700 per m²) and agricultural land around the city is also growing steadily. These latter types of land have been doubling their price in every few years recently, despite the fact that changing their designated usage requires time-consuming formal procedures. Sites zoned for housing construction are also becoming more expensive. The highest proposed prices (noted by the estate agencies) in 1998 were from PLN 500 to 1400 per m² in Warsaw whereas the most attractive plots in suburban areas were valued at from PLN 300 to 800 per m².

Prices in the housing market are rising steadily and the divergence among them is also growing. Prices vary according to the location of dwellings, as well as the quality and size of the flats. The greatest divergence of prices can be seen in downtown Warsaw¹¹: small flats cost from PLN 3.3 to 6.0 thousand per m², while luxury apartments can sell for up to PLN 10.3 thousand per m². Due to their high price per m², smaller flats have been the subject of great interest on the market for several years. Most often small flats for sale on the secondary market come from the central parts of the city. Investors, adapting to market demand, have also varied the size of newly constructed flats, introducing small and very small flats even in multi-family residential buildings of the highest standard, built for sale or for lease. The intense demand for small flats and the increased variation of flat size demonstrate the newest trends on the Warsaw housing market.

The upward spiral of prices in Warsaw continues to gain momentum. Predictions of changes to the system of tax relief for housing during the last two years have prompted many people to invest in housing. The market has reacted with an immediate jump in prices despite increased supply. Transactions often involve flats in buildings for which construction has just begun and which will only be ready for use at the end of the year 2000 or the beginning of 2001. It seems probable that vacant flats will soon appear in Warsaw for the first time. However, this will not provide a satisfactory gauge of housing development. A drastic increase in prices on the market has eliminated residential construction which is affordable for persons with average and low incomes. In such a situation the unsatisfied demand for housing could grow, despite the fact that so many flats are being built in Warsaw. Private investors provide a wide range of flats to offer the rich, and developers and housing co-operatives offer luxury or high-standard flats in various locations: single buildings in downtown Warsaw, luxury buildings in various parts of the city, including on the edge of the city centre and in the suburbs, often in areas with particularly desirable natural surroundings. On the other hand, there are very few flats on offer for people with more modest incomes. Housing co-operatives, for many years the suppliers of basic-standard housing, have seriously limited their construction of affordable housing. Low-rental housing, taking advantage of access to highly preferential credit, is developing much more slowly in Warsaw than in many other cities. Even communal housing, representing an insignificant percentage of the market of new construction, has become oriented towards the construction of high-standard flats. The city supports the policy of "succession", which assumes that better-off tenants will leave the communal sector and the dwellings they vacate can be inhabited by the poorer citizens. There are serious limitations to this policy. The city itself also promotes privatisation of the dwelling stock by selling units to tenants at very attractive prices. Thus, only a statistically inconsequential number of communal rental dwellings remain within the sector for further rent.

Prices for the sale and lease of office and commercial space provide further evidence for the investment boom¹². The average price for the purchase of 1 m² of office space was EUR 3086 as of the end of 1998, while the yearly cost of leasing commercial space in desirable parts of

1 USD = 4.19 PLN.

¹¹ Unless otherwise noted, figures are taken from the "The Warsaw Housing Report", Vol. 14, 1999.

¹² Data for this section is taken from Matusik (1999) and "Warsaw's Property Market" (1999).

the city was EUR 823 per m². These levels are comparable with those in many European capitals. In 1997 the construction of 42 office buildings was begun, together with the continuation of 23 such projects begun earlier. In recent years interest has grown among investors in boroughs other than “Warszawa Centrum”. Currently large investment projects by both foreign and Polish investors are underway. At present more than 10 class A facilities are being erected in Warsaw, totalling an area of half a million m². Supply currently exceeds demand, and the first symptoms of market saturation are already visible, insofar as office space is concerned. At present some 10–11% of office space is vacant, although until recently this index was around 1–2%. Average rental prices in Warsaw reach USD 16 to 40 per m²¹³.

Existing shopping centres in Warsaw include more than 270 thousand m² of commercial space. Work is underway on a further 800 thousand m² (a figure which includes both buildings under construction and those at the design stage). Prices for the lease of commercial space in modern centres range from USD 25–55 USD per m² per month, and are lower than the desirable commercial locations along the city’s main thoroughfares (USD 60–80 per m²). In addition to common arguments against the development of supermarkets and hypermarkets, in Warsaw these investments often occupy attractive space needed for future public investments and their location within densely invested areas of the downtown aggravates the city’s traffic problems. The existing spatial development plan is so general that does not protect these zones. For example, the areas around the railway stations are the subject of dispute. The Polish State Railways (PKP) hold the perpetual usufruct for these lands. The city is attempting to reserve these areas, somehow “publicly owned” and currently useless for railway transport, for public functions, but commercial chains, taking advantage of PKP’s difficult financial situation, are managing to take over these areas under complex bilateral agreements.

Development of the real estate market in Warsaw

The investment boom in Warsaw has its own set of causes. Some of them are the result of the city’s history, including the long period during which the city functioned under a socialist planning and investment system, while others represent solutions which appeared on the scene to fundamentally affect the development of the real estate market only after 1989. These developmental factors are of a varied nature. Some of them may be considered universal factors, and can be seen in many cities in the countries undergoing economic transition, while others are of a more particular nature connected with the history and specifics of Warsaw’s development. One can identify several factors of the latter type:

- the system of self-government in Warsaw,
- the city’s strategy for development,
- the deficit of flats,
- the restitution of Warsaw property ownership.

The capital city was the only city in Poland which changed its system of self-government in 1994, after the expiration of the first 4-year term for the local government. Previously, Warsaw had been the obligatory communal association of seven boroughs, which corresponded to the 7 districts which had functioned for many years. At present the city is made up of 11 boroughs. The largest and most affluent of these, the Warszawa Centrum borough, “subsumed” the former neighbourhoods of the central parts of the city and now encompasses the entire former downtown “Śródmieście” neighbourhood, and the entire modern downtown area at the same time. The current system has failed to solve the complicated questions of authority, and is not conducive to integrated development. The so-called “peripheral” boroughs, searching for their own identity, have naturally introduced separatist policies. They continue to build their autonomy both in a physical sense (by building, for example, their own new head-

¹³ Average rental prices for office space in other big cities are as follows: Poznan - USD 9–30 per m², Cracow – USD 10–20 per m², Gdańsk agglomeration – USD 8–22, Wrocław – USD 10–25.

quarters) and in a conceptual sense (calling for the transformation of the former neighbourhood into a “city”). All new investments and city-wide issues are discussed many times over, decisions are finally made only after long deliberations, and the confusing delegation of responsibility hampers the decision-making process. Planning and investing provide good examples of the defective operation of the Warsaw local government. One of the duties of the city as a whole is urban planning and development. Documents concerning strategy and planning are drafted at the level of the City of Warsaw and City Hall. However, most of the investment decisions, other than those of city-wide significance (i.e. roads and public transport, waste management, municipal heating, water, and sewage systems), are made at borough level. It is easy to imagine the kind of competition which takes place among the boroughs to ensure that particular, attractive investment projects are located on their territory. In particular, commercial chains, searching for the most beneficial conditions for their own development, take advantage of this competition among boroughs.

Even within the city centre one can notice differences in policy with respect to investors and new investment projects. The former borough of Warsaw–Wola was the part of the city which created a good climate for investment from the very beginning. This borough (now a neighbourhood within the Centrum borough) made swift decisions on the restructuring of former industrial areas, invited foreign capital for the construction of office-buildings, and became a partner in many local investments. It eagerly made property contributions to firms constructing or managing properties, in the form of construction sites.

Municipal administration in the city centre is very complicated. Within short distances of each other one can find quite different policies and administration systems being applied to the same types of municipal structures (e.g. for the resources of communal housing constructed in the 1950’s in various parts of the city). The structure of the decision-making process – i.e. the different councils at various levels of administration – involves too many individuals. If we count the institutions on the county (*powiat*) level, a total of some 700 councillors are responsible for making planning decisions in Warsaw. The direct consequence is the politicisation of the system of city administration.

Warsaw possesses a master development strategy, ratified by the City Council, which extends until the year 2010. According to this strategy, one of the factors preventing the effective solution of Warsaw’s developmental problems is the current system of city administration. A “Study of the directions and conditions for property development” has also been developed, covering the entire city. Individual boroughs develop their own formal or informal concepts for development. The strategic programs at the City of Warsaw level, either for technical (the quantity of materials and their detailed nature), or most often political reasons, are not sufficiently precise to provide the basis for decisions made by local government authorities and officials at various levels of their operation. Political correctness, resulting from the unclear future of the system of local government in Warsaw, is more conducive to a lack of fundamental solutions addressing developmental issues than to unequivocal decisions. Thus, we can speak of a lack of “vision” in the development of the metropolis. Bold projects, such as the development of the largest central square surrounding the Palace of Culture and Science, are not undertaken because they are waiting not only for funding but also for agreement from municipal decision-makers.

Another salient feature is the lack of a co-ordinated policy for social and economic progress and the property development of the entire metropolitan area, which deepens the functional and spatial fragmentation of the city.

Under conditions where there is a quantitative deficit of flats, as was previously discussed, it is difficult to conduct an efficient policy for utilisation of communal housing resources. Individual boroughs and neighbourhoods manage their own resources, and in general conduct a simple policy involving the privatisation of these resources while failing to undertake the im-

plementation of local modernisation or revitalisation projects. Some of the simple justifications provided for so doing are arguments concerning the unavailability of unoccupied flats for the permanent or temporary relocation of tenants from buildings being modernised, the lack of co-operation between the building administrator (most often a borough institution) and the inhabitants (who are often the owners of the individual flats), or about the need to settle issues involving the restitution of property. There is insufficient co-ordination of housing policy within the Centrum borough as well as on the city-wide level. The Warsaw city government does not conduct – to a significant extent – housing investment projects and does not utilise the instruments of housing policy which could encourage the market to develop more varied forms of housing. The borough does not promote a land-use policy which would ease access to construction sites for investors constructing publicly-accessible housing projects, nor does it encourage tenants to repair their own flats and buildings on the basis of a public/private partnership. Some of the programmes which do exist set too rigorous requirements for potential participants.

Market-based housing has already demonstrated its potential and it involves undertaking profitable high-standard investments, oriented towards meeting the demands of the affluent inhabitants of the city.

The negative effects of the growing discord between the housing conditions of the majority and the conditions enjoyed by the elite are not fully appreciated. However, Warsaw still could defend itself against such sharp urban segregation through implementing significant investment projects with respect to existing resources. It could utilise the factor of “relative egalitarianism”, inherited from the previous system, and strive to protect those neighbourhoods and zones threatened by technical and social degradation. Unfortunately, even the small number of such initiatives which were suggested have never gone farther than the conceptual stage – this pertains to pilot projects to revitalise buildings constructed from large pre-fabricated elements.

Warsaw is the one city in Poland where after the Second World War private property was “communalised” on a massive scale, and these actions were legally sanctioned. Motivated by the need for planned development and reconstruction of the city, a decree was issued which expropriated plots of land and buildings from their owners within Warsaw’s pre-war administrative borders. The law at that time provided for some compensation under certain administrative conditions, but the problem of land ownership remains unsolved to this day. Restitution claims concern a total of 14.1 thousand hectares of land (of which 12.2 thousand hectares is located within the territory of the Centrum borough) – in short, some 25% of the total area of the city in its most strategic zone. Thus the legal status of a significant part of the land and buildings remains unclear, and real estate transactions made by the city are complicated by this issue. It is probable that some portion of these transactions are being made in violation of the law, and that the city eventually will be forced to pay large sums in compensation. Various legal solutions to the situation are still under discussion¹⁴. The Warsaw authorities have declared it as their policy to respect ownership, and are conducting restitution on an individual basis for some older buildings and land – but only in those cases when the owners or their inheritors can produce full documentation of their ownership, meet all the conditions for compensation as provided for in the old regulations, and the current usage and status of the property does not conflict with their privatisation. This is a dramatic initiative, but one which cannot solve the problem at large. The boroughs and the neighbourhoods in general refrain from taking decisions with respect to properties. This means that urban planning policy, func-

¹⁴ The latest in a succession of restitution laws is currently before Parliament. It calls for the return of property in kind insofar as there is no conflict of interest, or compensation through “re-privatisation coupons” or securities, to the amount of 50% of the value of the property expropriated.

tional modernisation, and the rationalisation of property usage cannot be conducted in the proper way.

Among those developmental barriers which cities in transformation have in common, attention should be paid to those factors which have a fundamental influence on the urban planning of the city. These are following:

- the weak pace of planning efforts with respect to the demands of the investment market,
- the pressure of investors on the market,
- the lack of an unequivocal vision for the development of the city, especially in the context of challenges in the regional and metropolitan area.

Legal regulations in the field of urban planning and property development in the new economic reality are unstable, and new solutions are constantly being sought. In practice, this means the regression of urban planning efforts. Many strategic zones of Warsaw do not have property development plans, while the old master development plan for the city expires soon. This development plan was drafted in such general terms that they cannot serve as the basis for many controversial decisions on the conditions for the development and construction of land, as determined by later building permits.

Investors take advantage of this situation. It is an investor's market and, leaving aside the issue of corruption we can conclude that borough authorities, especially officials, enjoy a great amount of discretion in making their local decisions. The unclear structure of responsibility complicates any appeal process or decisions concerning specific projects, such as those following from the regulations of building conservation and urban zones. Decisions are taken not by individuals – i.e. specialists prepared to defend their decision in public – but rather by bureaucratic institutions and offices. Only the media have an effective means of recourse in monitoring controversial investment and urban planning decisions. Varsovians are indebted to the intervention of the local Warsaw departments of the leading Polish newspapers for their reflection on the development of the city and discussion of many investment projects and local decisions. However, these professional circles are prone to conflicts, divided, and their connections with the investors or boroughs are too close to allow for the majority of the opinions to be subjected to the scrutiny of an objective professional.

The two factors mentioned above are components of a wider phenomenon, i.e. the lack of vision for the development of the city and the metropolitan area. In general, there is no controversy with respect to setting out the primary strategic goals and in selecting the direction for urban development. Warsaw is expected to become a European centre and to offer a better standard of living to its inhabitants, and the city has zones and areas ready for expansion. But the situation becomes more complicated in reaching agreement on the question of how to achieve these strategic goals. Experts and city authorities have divergent concepts for the development of public transportation, many projects fundamental to investment plans over the next few years have not been implemented. Variant proposals do not provide a solution here. Urban planning has so far been the exclusive domain of the boroughs and limited to their administrative borders. When dealing with such complicated spatial structures as the Warsaw metropolitan area, co-operation between neighbouring administrative units is of great significance. On the other hand, Warsaw and its metropolitan area is not witnessing strategic local government alliances, and the idea of increasing the potential of the Warsaw metropolitan area by means of functional and spatial co-operation with the second-largest city in Poland, nearby Łódź, remains on paper alone.

Summary

This dynamically developing city, which has enormous potential thanks to the ongoing socio-political transformation and to its unquestioned predominant position in Poland, and which is important for the development of the entire region of Central Europe, presents challenges for

politicians, local strategists and city planners alike. The pace of development is such that it exceeds the current capacity of decision-makers and the bureaucracy to keep up. In order to prevent the city from becoming overtaken by uncontrolled developmental and economic processes, these challenges should be taken up in public debate. Such debate needs to encompass all aspects of the development of the city. The jurisdiction of decision-makers should be extended, while at the same time clear limits set for their duties. By this I mean not only applying the official instruments of urban planning policy, but also the seeking to reflect both the wishes of city inhabitants and the opinions of experts. The inhabitants have a valuable contribution to make to the decisions with respect to the development of the city, by expressing their opinions and voting on certain specific solutions. Discussion on a national and European level concerning a vision for the Warsaw's development would also be worthwhile. Even the best planners engaged in individual projects, even the best team building a strategy for the city and the directions for its future property development, are nevertheless still not in a position to create an optimal vision for the future of the city of Warsaw.

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**THE SWEDISH
MUNICIPAL
PLANNING SYSTEM**

The Importance of Property Development and Land-Use Planning

by Gösta Blücher¹

Introduction

This conference is taking place at an intriguing point in time. Planning is now placed firmly on the international decision-making agenda in connection with strategies for sustainable development and within the European spatial development perspective.

International agreements and decisions will increasingly affect local and regional planning for infrastructure and environmental protection, giving added impetus to local policies, which regard providing attractive environments for housing, work and leisure as vital components of local development strategies.

I think there is a growing awareness of the need for planning. It will lead to a re-appraisal of the strong emphasis many countries placed on unleashing market forces in the past decade. In these countries the public domain, the arena of community planning, shrank, and within the public domain there was a shift of decision-making from local planning to the courts and to central government. Expensive new ways of not planning, like “Enterprise Zones” were developed. While an emphasis on negotiated packages and on private costs and benefits rather than social costs and benefits often expedited major projects, it also made their success too reliant on market forces.

An important issue today is the confrontation of the planners’ traditional top-down perspective with the developing bottom-up perspective of residents and other users. Certainly, local co-operation has important socio-economic aspects. Especially in a society characterised by growing unemployment and ethnic and economic gaps it is of great importance to safeguard local dignity and partnership. But people’s engagement in local change is most often aroused around physical environment issues and a growing concern for the environment, locally as well as globally.

Land-use planning – a Swedish model?

The invitation to this conference it referred to a Swedish planning model. But is there a specific Swedish approach to planning?

Traditions as well as specific economic, geographic and political factors determine the way each country will meet the need for planning.

Developments in Sweden in the 20th century – pronounced urbanisation, increasingly effective methods of developing natural resources and a great increase in prosperity – were met through legislation answering the need to plan urban communities and to manage land and natural resources. Our legislation and planning style also reflect Sweden’s low population density, large land area, long coastline and dispersed settlement pattern.

Initially modern planning legislation in Sweden was weak. It relied strongly on landowners’ initiatives, and proved unable to deal with large-scale urban expansion. Post-war planning

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legislation therefore made significant changes to the relationship between the rights of the community and of private landowners. It established the right for the community to decide where urban development was to take place.

This planning reform, along with a shift from a minimal to a comprehensive housing policy, formed a framework for a rapid development of urban areas and action to satisfy the higher expectations concerning housing, sanitation and social services.

Strong public intervention in housing policy was due to the failure of market forces to produce new housing at prices a large proportion of the population could afford. It was concluded that in periods of economic expansion and population growth the market displays lengthy and serious housing shortages. Public action was therefore designed to make the housing market function in an adequate way, with minimum of imperfections, at a productivity level normal in other sectors of the economy.

So the Swedish approach or model, if you want to define it as such, has been characterised by strong, concerted public control and action attuned to evolving needs. The three key elements have been and remain:

- open and decentralised decision-making,
- distinctive settlement structure,
- means of considering ecological aspects in planning.

The principle of open decision-making in planning in a strongly decentralised framework is expressed in a strong role of local government and a public review right ensuring access to official documents. The chief focus of decentralisation in Sweden is the municipality, that is the local level rather than the regional level. The municipality has an important position in community planning related to

- its right of taxation,
- its monopoly in terms of physical planning, (The municipalities have the sole right to plan where, when and how urban settlements may be established and development may take place.)
- its role in housing policy.

Planning has supported two distinctive features of urban Sweden – they are a dispersed settlement structure and a good provision of green space in urban areas, with a natural interaction between town and country, also reflected within municipalities.

Two features of planning system have been important for the development of an ecological approach to planning:

- The environmental permit system for polluting industries and
- The national physical planning, which eventually resulted in the Natural Resource Act.

Actual legislation on planning in Sweden

Present Swedish planning legislation came into force in 1987 and has aims like further decentralisation, local adaptation, greater flexibility and freedom for the individual, a stronger emphasis on implementation and resource management. Participation was improved by giving people affected by a plan or proposal the same participation rights as landowners.

A separate Natural Resource Act was adopted along with the new Planning and Building Act. This Act includes a specification of the national interests developed in national physical planning. The Act also includes regulations on Environmental Impact Assessments.

Strategic issues are to be considered in a comprehensive plan. Every municipality is required to have an up-to date comprehensive plan for the use of all land and all water areas in the municipality. The plan must show the public interests, which should be considered in deci-

sions on land use, as well as how the Natural Resource Act would be satisfied by such land use.

The legislation entitles municipalities to plan without subsequent state approval being required, thus adopting their own legally binding detailed development plans. Municipalities distribute building rights to landowners by these plans, but the duration of building rights is restricted to an implementation period of between 5 and 15 years.

The Swedish model debated

I have here presented community planning as an attempt to rectify market failures. Objections to such a perspective arose from a neoliberal ideology that asserted that market systems were basically preferable to political solutions. Public planning was perceived as a less-than-attractive alternative to the market economy and a step towards socialist planned control. Simultaneously, the market economy was linked with concepts such as free choice and individualism, while the ends and means of public planning, albeit determined through decisions by representative, democratically elected assemblies, are nonetheless collective decisions. It is the politicians who decide.

In order for the arguments in these terms to be meaningful, those taking part in the debate must agree on what the concept of a “market” means. In economics, there is an accepted theory of price formation in a market, given various conditions. Markets are said to be characterised by free competition, oligopoly, duopoly or monopoly. The outcome of market solutions is heavily influenced by the market solution in the case in question.

Thus, if we can establish that it is pointless to make any general statements on market systems, it may be justifiable to regard social interventions as a way of influencing the process. The market becomes the forum in which interplay of this kind takes place. Social planning and market systems are not then necessarily perceived as a pair of opposites.

Be that as it may the public sector’s position in Sweden has during the last decade become weaker while, at the same time, citizens can discern a growing private sector interest in participating and influencing the planning process.

Growing awareness about the importance of planning

A basic reason for the increased interest in planning is still the awareness of market failures. The market cannot provide effective solutions to various infrastructure needs and other social services and this erases a stable framework for decision-making in urban and regional development.

The influence of private intervention on the planning process is another starting point for encouraging the review of planning methods. On the one hand, it is obvious that partnerships between the public sector and various private actors are necessary from both finance and implementation perspectives. On the other hand, it is also obvious that the models, for collaboration that were utilised during the 1980s contained deficiencies. Public-private partnerships violated legitimate demands for public participation in the planning process and many partnerships, in retrospect, turned out to be short-sighted and inefficient.

Yet another argument for planning is that in order to achieve efficient solutions for developing transportation systems, there must be co-ordination of housing, workplaces, and services. Development of special projects, so characteristic of the 80s, proved to be problematic. A satisfactory result could not normally be achieved without a more holistic approach and a strategy, which recognised interrelations and total impacts in a long-term perspective. This meant that there was a need for spatial co-ordination. The search for ways of reducing public expenditures, and developing less bureaucratic and more collaborative urban governance,

also underpinned this motive for reorganising processes of the planning system.

Finally, the importance of planning is recognised with respect to social issues. The social consequences of high unemployment levels in some districts are recognised as issues calling for action. The same is true for ethnic segregation in towns and cities. Together with equity concerns related to gender and other factors, these social issues have provided arguments for the development of new planning methods.

Swedish planning – refining the system

New demands on planning and imbalances in the Swedish planning system can be addressed within the framework of continued comprehensive planning, not least by strengthening this strategic level. This will also equip the system better for the planning issues of tomorrow, which can be expected to underline still further the environmental and regional dimension of planning. Let me outline some ideas.

The municipal comprehensive plan can be used to transform present regulations on resource conservation and management into concrete rules for how different issues should be handled in all decisions taken by government authorities to support sustainable local development. This will add an effective spatial dimension to supplement the general legislation and economic instruments of environmental policy; focusing on what restrictions and what conflicts apply at particular places.

In-depth studies can supplement the comprehensive plan to deal with specific local urban developments and services. The weak regional dimension can be strengthened if municipalities co-operate in regional studies of particular themes like traffic infrastructure, water and sewage and waste management.

There is also a need for a new discussion of priorities leading to a national vision instead of the defensive sectoral attitudes found in the first generation of municipal comprehensive plans.

Finally, people tend to forget that national physical planning in the seventies was a wide-ranging process that involved national, regional and local levels in a debate about the Sweden of the future. This process also led to a great increase in planning quality, professional competence and public awareness.

Property Development and Land-Use Planning Processes in Sweden

by Thomas Kalbro¹

Introduction

Some key elements can always be identified in the property development process, e.g. *planning* which results in some sort of “development plan”, *land acquisition*, in order to implement the plan, and *construction*. The aim of this paper is to show that these basic elements can be combined in a number of different ways. In other words, the objective is to demonstrate that the property development process in Sweden is not in fact a single process, but several.

In this respect there are two factors with a vital bearing on the implementation of development projects. (1) *Ownership conditions* within the development area; is the land privately or municipally owned when development is initiated? (2) *The role of the developer* (property owner) in the process; does the developer play an active part in work on the “Detailed Development Plan” together with the municipality, or is planning work entirely a municipal responsibility? In terms of these factors, one can distinguish between four “cases” of development project implementation.

Unfortunately, this paper requires a rather long run-way before it can take-off. That is, in order to describe different processes it is first necessary to provide some background information about Sweden regarding the actors, different legal tools, development agreements, etc.

The actors²

Sweden is divided into 24 counties (*län*), each of which is headed by a County Administration responsible for a large part of national/state government administration at regional level. Parallel to the County Administrations are 23 County Councils (*landsting*). These are headed by elected assemblies and have medical care as their main responsibility (some of them are also responsible for public transport and various other public services).

However, more importantly in the case of planning and property development, at the local level there are 289 municipalities (*kommuner*).

The municipality

The municipality plays a pivotal role in changes of land use and has many fields of responsibility with a bearing on the use of land resources – education, child-care provision, care of the elderly, social welfare, housing supply, energy planning, environment and health protection, etc. In addition, the municipality is directly involved in the land development process in four other capacities.

¹ Dept. of Real Estate and Construction Management, Royal Institute of Technology.

² Of course there are numerous of actors involved in property development. However, to fulfil the purpose of this paper I believe it is sufficient to concentrate on two main actors, namely the municipality and the developer.

- It is primarily the municipality which decides, through planning and permit procedures, how land and water resources are to be used (see Ch. 3.1).
- The municipality has to cater to the need for certain infrastructure (see Ch. 3.3).
- Many municipalities have substantial land-holdings. Basically, municipal land ownership serves two purposes. Firstly, the municipality itself needs land for public services, infrastructure and housing production; see below. Secondly, land-ownership gives the municipality a further means, in addition to planning and building permission, of controlling and influencing impending development in various respects. The municipality can act as a “go-between” by assembling strategic land, more or less in advance of a development, land which it later transfers to a suitable developer.
- The municipality – or municipal companies – can commission the production and management of building development, mainly for housing. The municipally owned non-profit housing utilities are an important player in the rental housing market³.

Developers/property owners

The developer owner has two fundamental roles, namely that of changing the use made of the property by having buildings and facilities erected, and, subsequently, that of managing and maintaining the buildings and facilities constructed. Often these two roles are combined, i.e. the property owner carries out the development and then manages the buildings. It is also common, however, for a property owner to act as “go-between” by constructing buildings and then transferring them to new ownership.

In the construction of buildings and facilities which imply changes of land use, the property owner “commissions” a construction project. In this connection in Sweden, the term “developer” (*byggherre*) denotes a very heterogeneous category. The developer may be:

- a private individual who buys a plot on which to build a detached house for himself;
- a company erecting premises for its own use;
- a co-ordinator building homes which are subsequently transferred to a tenant-owner association and occupied by tenant-owners. Usually co-operative tenant-owner enterprises take charge of administration and of the co-ordination of building and management;
- a construction company erecting detached, semi-detached or terrace houses for sale;
- property companies which erect housing or non-housing for letting, e.g. municipal non-profit housing utilities or private enterprises.

Finally, the term *byggherre* also applies to a municipality constructing day nurseries, streets, water and sewerage mains etc. The same goes for other infrastructure mandators, such as the National Road Administration, power distribution and telecommunications enterprises, and joint-property management associations constructing communal facilities.

Legal tools

Planning and planning documents

Land-use planning under the Planning and Building Act (*plan- och bygglagen*) is a municipal concern. Basically, the municipality alone decides where, when and how a plan is to be drawn up. That is, a property owner cannot demand that the municipality draw up a plan for his land or appeal against the municipality’s decision to refuse to draw up a plan. Furthermore, the Government cannot order the municipality to adopt, revise or cancel plans, except where necessitated by national interests or by interests involving several municipalities.

³ Even though we perhaps see signs that the importance of the municipal housing companies is diminishing.

The compliance of buildings with the provisions of the Act is assessed by the municipality through planning and building permits. For the purpose of this paper the system of planning and permits can be simplified and summarised as shown in the figure below⁴.

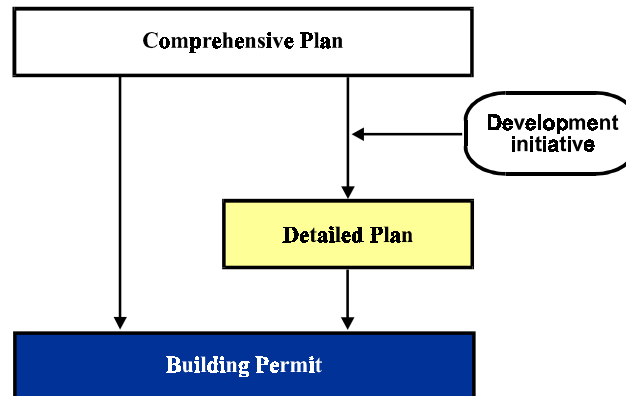


Figure 1. The system of planning and permits (simplified) under the Planning and Building Act.

The Comprehensive Plan

Every municipality must have a current Comprehensive Plan (*översiktsplan*) covering its entire area. This plan must indicate the basic features of land and water use and of urban development, and must furnish guidance for more detailed planning and permission. The comprehensive plan, however, is not binding. That is, it may be overruled by subsequent Detailed Plans and building permits.

The Detailed (Development) Plan

A Detailed Plan (*detaljplan*) is mandatory for extensive changes of land use. It is important to note that this type of plan normally is prepared *when a development has been initiated* and has to be drawn up in the following cases: (1) for new, continuous building development which requires such communal facilities as roads, water and sewerage mains etc., (2) for a single new building which has considerable impact on its surroundings and/or is to be located in a zone where settlement pressure is high, and (3) for existing building development which is to be changed and preserved and needs to be regulated in an area basis. The amount of regulation needed concerning land use and building development naturally varies from one case to another, and so the same is true of the content and appearance of individual detailed plans. There are, however, certain mandatory particulars which the plan must always include:

- delimitation of public spaces (*allmänna platser*) such as streets, roads, squares and parks and responsibility for the provision and maintenance of public space (see section 3.3);
- delimitation of building sites, (*kvartersmark*) and of the use to be made of this land for housing, offices, shops, industry, parking, community centre amenities, schools, etc. (more than 20 different categories of use can be specified);
- detailed plans must have an “implementation period” (*genomförandetid*) of between 5 and 15 years for the plan to be put into effect.

⁴ The Planning and Building Act also provides other planning instruments. The Regional Plan (*regionplan*), which is not mandatory, can be used if necessary to co-ordinate the planning activities of several municipalities. Special Area Regulations (*områdesbestämmelser*) are a regulatory procedure which can ensure, with binding effect, that the purpose of the comprehensive plan is achieved. The Subdivision (i.e. property regulation or parcelling) Plan (*fastighetsplan*) can be drawn up and adopted for zones with detailed plans. The purpose of the subdivision plan is to regulate: (1) Property subdivision (property units, joint property units and easements). (2) Communal facilities shared by several property units.

Over and above these mandatory particulars, a more detailed definition is possible, for example, of land use, the extent of settlement, its location, design and workmanship, and questions concerning land and implementation. The detailed plan provides scope for extensive regulation of land use and building development. The Planning and Building Act points out, however, that the plan must not be made more detailed than its purpose demands.

The Detailed Plan is legally binding, i.e., when the plan acquires force of law, rights and obligations are incurred, above all by the municipality and property owners. A building permit (*bygglov*) application must, in principle, be granted if it accords with the plan. Furthermore, certain land in the plan can be acquired by compulsory purchase, e.g. land for public space (see section 3.2). Finally, decisions under certain other enactments must conform to a detailed plan.

The Planning Process (in summary)

Schematically the sequence of normal planning procedure can be illustrated as in Figure 2 below.

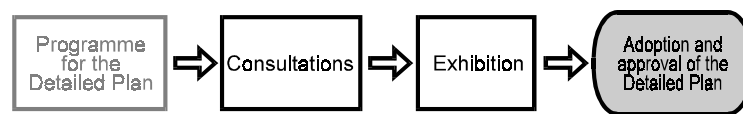


Figure 2. The basic procedure for compiling a detailed plan.

A Detailed Plan should be based on a *programme* containing a description of the present situation, the preconditions and purpose of the planning, the way in which planning work is to be conducted and a timetable for the planning process. Under certain conditions an *Environmental Impact Assessment* is required.

The municipality shall *consult* with the county administrative board, the property registration authority and other municipalities which may be affected by the draft plan. The tasks of the county administrative board include ensuring that “national interests” are not counteracted. The municipality must provide the opportunity for consultations with property owners, landlords, tenants and residents affected by the plan. The same applies to other authorities, e.g. the roads administration, associations and private individuals whose vital interests are affected by the detailed plan.

A draft detailed plan has to be *exhibited* for scrutiny for at least three weeks. The draft plan must be advertised – on the municipal noticeboard and in local newspapers – at least one week before the exhibition period begins. In addition, notice of the announcement must be sent to property owners and others whose vital interests are affected by the draft plan. Anyone objecting to the plan must submit viewpoints *in writing* to the municipality during the exhibition period. After the exhibition the municipality has to collate the viewpoints received into a pronouncement.

Development control by Building Permit

In brief a building permit (*bygglov*) is required for the erection of new buildings, for extensions, for the application of buildings to an essentially different purpose, for considerable changes in the layout of buildings.

Land Acquisitions

In Sweden, a vital juncture of the development process occurs when the detailed plan becomes legally binding. This being so, it may be appropriate to distinguish between land acquisitions made, respectively, *before* and *after* the detailed plan.

These two types of acquisition can be characterised as (a) *strategic* land acquisitions before the detailed plan and (b) land acquisitions for the purpose of *planning implementation* after the detailed plan.

Sweden has several laws containing rules on compulsory acquisition of land. Where strategic acquisitions before the detailed plan are concerned, it is mainly the Expropriation Act which applies. Rules on compulsory acquisition of land for direct purposes of planning implementation are contained in the Planning and Building Act, the Property Subdivision Act, the Joint Installations Act, the Utility Easements Act and the Joint Land Development Act.

Strategic acquisitions – Expropriation

Under the Expropriation Act (*expropriationslagen*, 1972:719) it is above all the State and the municipalities that are empowered to acquire land by compulsory purchase for a variety of purposes, e.g. communications, entrepreneurial activity, restricted areas and safety zones, defence purposes, nature conservancy and outdoor recreation. The municipality can also expropriate property units, which will be needed for “urban settlement” later on, e.g. land for housing, offices, factories, etc. and supplementary communal amenities such as roads and green spaces. However, it should be pointed out that expropriation is relatively unusual nowadays. In most cases land is acquired through voluntary agreements.

Acquisitions for plan implementation – Compulsory Purchase based on the Detailed Plan

The Planning and Building Act entitles the municipality to acquire land reserved in the Detailed Plan for *public spaces*, i.e. streets and green areas in the detailed plan. The Act also empowers the municipality to acquire a development site, which is not reserved in the detailed plan for “private building”. This can mean public buildings, schools, day nurseries, sports and recreational facilities, railway and other traffic installations, areas for harbour, energy production and water and sewerage amenities etc.

Furthermore, Swedish legislation enables compulsory purchase in order to establish communal facilities for two or more properties (e.g. exit roads, parking, garaging and neighbourhood amenities), to create new lots when new property subdivision may deviate from the old one and to create easements for different purposes.

Responsibility for construction, operation and financing of public facilities and services

A Detailed Plan includes several types of facilities, which are common to the property units – streets, green spaces, water and sewerage mains, electricity supply and telecommunications. There are numerous laws regulating the construction, operation, financing etc. of these facilities and these legal prerequisites have, of course, a significant impact on planning and property development.

As a general principle, developers and property owners can only be charged for “facilities serving the area”. That is, the facilities must exclusively benefit the properties, which are to pay the charges. This means, for example, that the cost of streets and parks serving larger areas – e.g. through roads, service roads and high streets – has to be met out of taxation revenue.

Public space in a detailed plan

Normally the municipality is responsible for public spaces in a Detailed Plan – streets, recreation spaces, green spaces, etc. It is then the duty of the municipality to construct public spaces parallel to the completion of the public development and in accordance with “local custom”. To cover the cost of public spaces, the municipality is entitled to levy charges on property owners. These charges must not exceed the *construction* cost of the facilities. Maintenance costs, on the other hand, have to be funded out of local taxation revenue.

Water and sewerage

Water supply and sewerage are mostly managed by the municipality (but there are instances of public water and sewerage systems being operated by regional inter-municipal associations). The municipality is entitled to levy set charges on property owners. The total charges may not exceed the cost of the water and sewerage installations to the municipality. The charges consist of an initial connecting charge and an annual user charge.

Electrical power and telecommunication

Power supply is financed entirely by means of charges to users. These generally take the form of a connection charge, an annual fixed basic charge and a variable charge based on actual consumption. Telecommunication lines are also financed entirely by means of charges in the form of a connecting charge and an annual subscriber charge.

Communal facilities

Communal facilities (*gemensamhetsanläggning*) are facilities common to several property units and managed by the property owners themselves. A communal facility can comprise roads, footpaths, and play spaces on a developed site used by several property units. It can also take the form of a water and sewerage system, power and telecommunication cables, heating installations, etc. The commonest amenities, in addition to those mentioned already, are parking, garaging, outdoor lighting, storage premises, neighbourhood facilities and laundries. Construction and operating costs of a communal facility must be allocated according to the participation units (*andelstal*) allotted to the property units.

Development agreements

Previous chapters have already shown that many rights and obligations of developers/property owners and municipalities are defined by statute. This applies, for example, to building on development sites, land acquisition and the development of various communal facilities. Minor building projects, as a rule, are conducted solely on the basis of the legislation, but there are other development situations in which the statutory rules need to be elucidated and supplemented by voluntary agreements between the municipality and the developer.

One type of agreement extensively used for land development is the Development Agreement (*genomförandeavtal* or “implementation agreement”). This is an agreement under civil law between the municipality and a property owner/developer, defining common objectives and/or the rights and obligations of the parties in connection with a development. The agreement may specify what is to be built, when it is to be built, changes of land ownership, who is to defray various development costs, and who is to be responsible for the construction of municipal engineering installations and for other measures.

Land Development Agreements

One form of a development agreement is characterised by the property owner/developer owning the land, which is to be built on when the agreement is entered into (*exploateringsavtal*). For the municipality, this type of agreement is primarily a means of controlling the implementation of a development. It is a document providing the municipality with a guarantee that development will conform to municipal intentions. The agreement can make clear the measures to be taken and paid for by the municipality and developer respectively in the course of the development. Through the agreement the municipality can also specify the structure of the building development and the chronological sequence of building operations.

The land development agreement can also provide a means of minimising municipal expense and involvement in connection with the development. Then again, a contractual agreement on changes of land ownership and charges for municipal streets, water and sewerage systems, etc. can be more flexible than a formal, statutory procedure. For the property owner, the

agreement may be a precondition of the municipality drawing up a plan for the land in the first place. The agreement, frankly, is something the developer has to accept so as to be able to build on his land. But the land development agreement need not be regarded solely as a “necessary evil” for the developer. Like the municipality, the developer needs to clarify in advance the thrust of development and the allocation of responsibilities and costs between the parties. It is also in the developer’s interests to save time by securing agreements which will obviate unwieldy statutory procedures.

A land development agreement is always signed *before* the detailed plan is adopted, because the municipal negotiating position is based above all on the possibility of refusing to adopt the plan if the developer is not prepared to conclude a land development agreement. It may seem odd that the municipality should be empowered to exploit its monopoly and official status to compel the developer to sign a land development agreement, but the possibility of a developer feeling constrained to sign is no impediment to such an agreement. The critical question concerns the terms of agreement which the development can be forced to accept. In a land development agreement, the municipality must not exact measures or undertakings from the developer which exceed those the municipality could achieve by implementing the legislation regarding, for example, transfers of land and charges for municipal facilities.

Land Allocation Agreements

Another form of development agreement is used when the municipality owns the land to be built on (*markanvisningsavtal*). This might be called a “land allocation agreement”. In connection with this agreement, the land is conveyed to a developer, and so the agreement can be viewed as a “contract of sale” combined with conditions to be met by the parties in connection with the development of the land. The municipal negotiating position when drawing up a land allocation agreement of this kind is based primarily on its ownership of the land. This means that a land allocation agreement can be entered into at any time, regardless of when the detailed plan is adopted; that is, the agreement can be signed both before and after the detailed plan is adopted. As regards the motives for drawing up a land allocation agreement, reference can be made to the purposes of the land development agreement. Perhaps the main motive of the developer is made clearer than ever by a land allocation. If a developer does not sign the agreement he will not have access to the land and will thus be unable to build on it.

As regards the demands which the municipality can make on a developer, a land allocation agreement is not subject to the same legal restrictions as the land development agreement. Here the municipality acts as a land owner and vendor of the land. This makes the “price”, in the form of money or other types of consideration, which the developer is prepared to pay for the land a matter of negotiation.

Prior Agreements

A prior agreement (*föravtal*) precedes a subsequent development agreement. The prior agreement can be entered into for land owned by the developer or the municipality (or to be acquired by one of them). Thus the prior agreement can lead to either a land development agreement or a land allocation agreement. When a prior agreement is concluded between the municipality and the developer, no detailed plan has yet been drawn up. This is an important difference compared with land development and land allocation agreements, which, normally speaking, are always geared to a prepared detailed plan.

The Construction Process

The description of processes involving a host of activities, governed by several different sets of rules and official decision-making and involving many private and public actors, is of course a complicated business. Many of these activities, actors and regulatory systems have been dealt with in previous sections. One question which has not been raised, though, is the actual construction process, in which a project is finally realised and in which the main actors or protagonists are the developer and various contractors.

If we simplified this process considerably it can be described as in Figure 3 below.



Figure 3. The construction process.

To begin with, the developer (*byggherre*) may have certain requirements and preferences concerning the buildings and facilities to be constructed. Next he chooses the appropriate form of procurement for the contract (see below). To give contractors a basis on which to submit tenders, there has to be a *design/description* of buildings and facilities – tendering documents, in other words. This description may be purely verbal, but as a rule the documents include drawings of different kinds (architect’s drawings, structural drawings, survey drawings, insulation drawings and wiring diagrams, etc.). A developer not having the resources to prepare his own tendering documents has to engage outside planners. After tenders have been invited and the tendering period has expired, the developer chooses a contractor. A contract is concluded between them. During the construction process or contracting period, the contractor in turn signs agreements with various suppliers and perhaps with subcontractors. When the project is completed, the developer checks that the contractor has discharged his obligations as defined in the contract. A final inspection takes place at the end of the contracting period and a guarantee inspection at the end of the defects liability period.

Forms of procurement.

The term “procurement” denotes the process from the invitation of tenders to the signing of a final agreement with a contractor. Procurement can take various forms, depending on the manner in which tenders are invited, the form of contract and the form of price determination.

There are three principal ways in which the developer can invite tenders from contractors. In a public or open invitation to tender, the developer extends, usually by advertisement, an invitation to all companies interested in tendering. Limited tendering or tendering by invitation means the developer turning to a smaller group of companies which, in his belief, possess the competence required for the work in question. Finally, the developer may turn to single contractor to discuss the terms of the construction project. This is termed “tendering combined with post-tendering negotiations”.

The form of contract governs the respective liabilities of the developer and contractor for different parts of a construction project. There are three main types of contract: *Divided Contract* means that the developer, acting through his own personnel or outside consultants, takes charge of planning and design. This form of contract is characterised by several contractors. In

a *General Contract* the developer signs an agreement with one contractor only, the general contractor, who in turn engages subcontractors. Here again, though, planning and design remains the developer's responsibility. A *Design-Construct Contract* is an agreement between the developer and one single contractor, but with the contractor taking charge of both planning/design and construction. In a "perfect" design-construct project, the developer's tendering documentation has a low level of detail, expressing functional requirements rather than cut-and-dried solutions. Sometimes, if the tendering documentation is purely verbal, reference is made to "programme purchasing".

The Property Development Process

Two factors with a vital bearing on the implementation of a development project are:

Ownership conditions within the development area. Is the land privately or municipally owned when development is initiated?

The role of the developer in the process. Does the developer play an active part in work on the detailed plan together with the municipality, or is planning work entirely a municipal responsibility?

In terms of these factors, one can distinguish between four models or cases of property development project implementation.

	The developer does not participate actively in plan preparation	The developer and the municipality prepare the Detailed Plan jointly
The developer owns the land	Case 1	Case 2
The municipality owns the land	Case 3	Case 4

Figure 4. Four typical cases of development procedure.

Case 1

In this instance the land is owned by one or more developers who do not play an active part in drawing up the detailed plan (beyond being consulted about it). This situation can be instanced by development in existing built environments, e.g. renewal and infill development of older residential areas, with property owners building their own single-family dwellings. A characteristic of these areas is the existence of several property owners, most of whom are not professionally involved in development and construction activities. Planning work and the construction of streets, green spaces, water and sewerage mains etc. are therefore carried out by the municipality, the property owner's responsibility being confined to the construction of house and facilities on his own plot. The main outlines of the process in this type of development can be described as shown in figure 5.

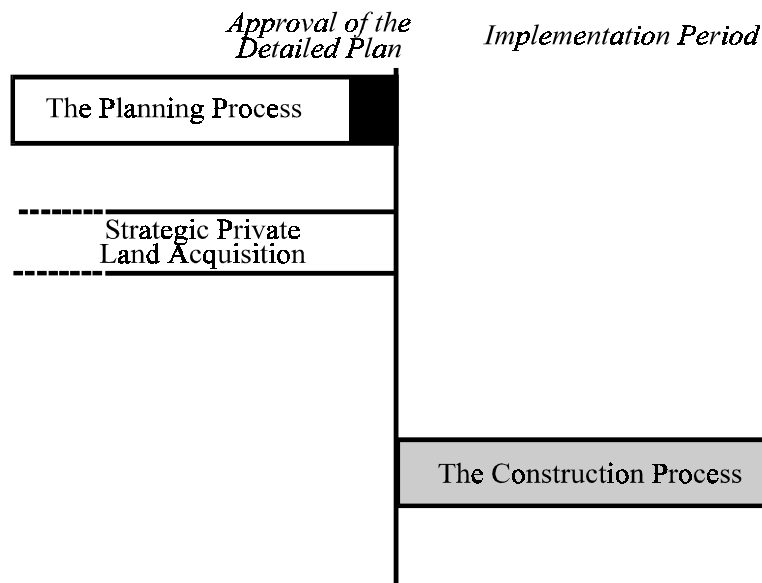


Figure 5. The development process; Case 1.

Since the municipality decides where, when and how building is to take place, the formal *initiative* in land development is taken by the municipality through some form of “decision in principle” to go ahead with the project. The real initiative, of course, may also come from the municipality, e.g. due to a need for housing, non-housing development or the enlargement and improvement of infrastructure. The initiative in changing the land use may also be taken by owners of a prospective development area. The owner or owners themselves may need new development on the property or intend selling the property or parts of it when the development is completed.

The *planning process* has already been described in general terms. As part of the planning preparations, various technical investigations are carried out with regard to geotechnical conditions, water and sewerage, roads/traffic, energy supply etc. “Pre-planning” takes place of streets, services and other installations. Planning design also has to be co-ordinated with building, economics, finance, land acquisition, possible implementation agreements and organisational questions etc. affecting implementation of the plan.

When it comes to the *construction process* the developer’s design of facilities and buildings, in principle, begins when the detailed plan has acquired force of law, i.e. when the content of the plan is known for sure. If the detailed plan is “non-contentious” one can already be fairly sure, during the terminal phase of the planning process, what the final plan is going to look like. In cases of this kind, design can begin earlier. But of course, the actual construction of buildings and installations cannot begin until the plan has acquired force of law and building permit been granted.

Primary responsibility for the construction process can vary somewhat with this development model. One option is for the developer to erect buildings and facilities on a development site, while the municipality attends to the construction of public spaces and communal water and sewerage mains. This is a natural allocation of responsibilities if the developer is not a professional builder, as for example in the case of a property owner in a renewal district. If, on the other hand, the possibility exists of the municipality and developer entering into a *Land Development Agreement*, then the agreement can lay down that the developer is to be responsible for constructing the municipal facilities and will then transfer them to municipal ownership.

If the developer owns the land, a land development agreement can be concluded between the municipality and the developer *before* the detailed plan is adopted. This, however, is subject to the development being on a certain scale. The developer does not have to own all the land in the development area, but legislative practice does require him to be in a position to sell “several plots”. This means that development agreements can occur in case 1. But it is also conceivable that the prerequisites of an agreement may be lacking – for example, with the intensification of a single-family housing area if the original property units are to be subdivided into two or three new plots at most.

Earlier a distinction was made between *strategic* land acquisitions and land acquisitions for *planning implementation*, i.e. acquisitions made, respectively, before and after the detailed plan. The strategic acquisitions, made with a view to developing the land when the plan has been adopted, can already be made before work on the plan begins. Often, however, the commencement of detailed planning conveys a signal to the property market. That is, potential developers – construction companies or private companies – acquire land, while existing property owners with no interest in building dispose of their properties. Later, when the detailed plan has been adopted, land acquisitions are made with a view to adjusting property subdivision and ownership conditions to it.

Case 2

Here as in the preceding model, the developer owns the land. One vital difference, though, is that municipality and developer work out the detailed plan together. Thus the developer becomes involved at an early stage of the development process. This form of development can be described as in the figure below.

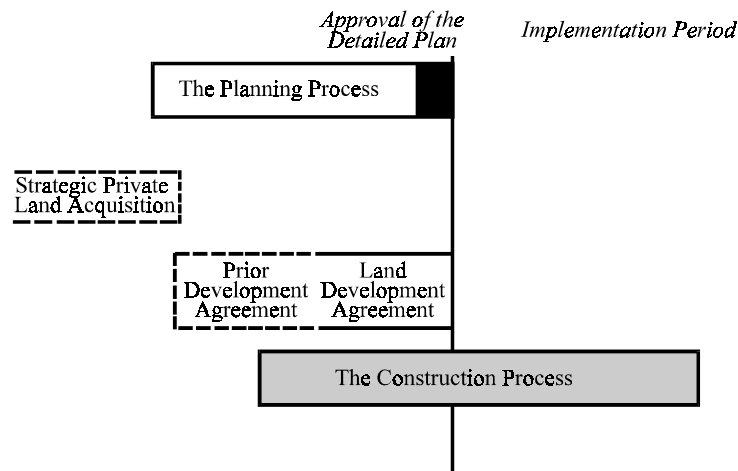


Figure 6. The development process; Case 2.

There are two main reasons for the developer to play an active part in planning:

One purpose is to improve the quality of the plan with regard to building development, economics etc. Co-operation between municipality and developer means that the planning and construction processes can be properly co-ordinated. The benefits of “early developer participation” are greater in the case of more extensive and complicated development projects where the municipality alone has difficulty in defining the requirements for the “end product”.

If parts of the construction process proceed parallel to compilation of the detailed plan, this has the effect of speeding up the development process. To be able to participate in the planning process, the developer must of course have the competence required. This competence is possessed by developers doing their own building, e.g. construction companies, or by devel-

opers who can engage consultants.

There are great similarities between cases 1 and 2, and so the following remarks are mainly confined to essential differences between them. The practical business of drawing up the detailed plan can be variously organised. In cases where the municipality has a carefully thought out and politically accepted detailed planning programme, much of the practical work of planning can be entrusted to the developer. If so, the main task for the municipality will be to scrutinise the developer's planning proposals and indicate any changes that may be needed. In addition, the municipality must attend to the formal processing of the planning transaction, e.g. consultation, display and adoption. Another possibility is for the municipal authorities to assume a greater share of responsibility for the practical business of preparing the plan, while the developer takes principal charge of design.

One characteristic feature of this model is that much of the developer's design work runs parallel to the compilation of the detailed plan. If the plan is "non-contentious", work on purchasing the construction project can also begin during the terminal phase of the planning process. The construction of facilities and buildings, however, may not begin until the plan has been adopted and acquired force of law and the developer has obtained building permit.

Almost invariably, when all the land in a development area is owned by one developer, a land development agreement is drawn up between the developer and the municipality (this may be preceded by a "prior development agreement"). The agreement concluded between planning/design begins can define the tasks of the developer and municipality in connection with planning, technical investigations, apportionment of investigation and planning costs, time-tabling etc. Another important point which may also be included in the agreement concerns cost liability for "frustrated design" in the event of the project being abandoned.

In case 1, strategic land acquisitions could be made after detailed planning work has begun. Planning, in principle, is unaffected by land ownership, since the developer does not play an active part in the planning phase. If, on the other hand, the developer is to participate in planning, a different situation applies. For obvious reasons, the developer must have acquired the land before planning begins. Land acquisition for planning implementation after the detailed plan can be regulated in the land development agreement. In that agreement, municipality and developer may agree that land for streets and green areas is to be conveyed to the municipality, that the developer is to reserve space for services, communal facilities etc., and they can agree on the payment to be made and on when and how property subdivision is to be effected.

Case 3

In this instance the land is owned by the municipality, which also draws up the detailed plan. Once the plan is drawn up and adopted, the municipality appoints a developer through land allocation (*markanvisning*); see Figure 7.

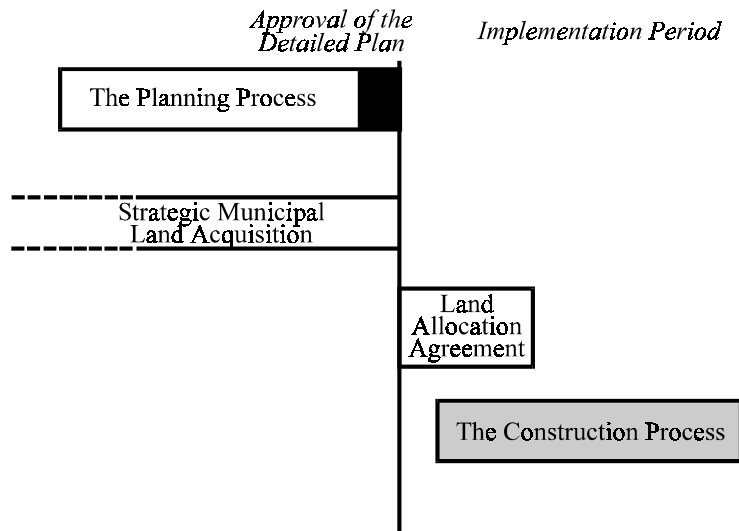


Figure 7. The development process; Case 3.

Because the land is municipally owned and the municipality is responsible for planning, the municipality will be sole agent during the introductory phase of development. That is, in this case the initiative for development will come from the municipality. Usually, however, that initiative is taken in view of the existence of potential developers who are willing to build in the development area. These may be companies which themselves are in need of housing or non-housing premises, or construction companies wishing to engage in speculative building.

When the detailed plan is drawn up, the municipality does not have a developer to consult and co-operate with. This means that the municipality must draw up the detailed plan without any closer knowledge of the future developer's requirements and preferences. One way of overcoming this problem is by making the plan less detailed, i.e. restricting it to the minimum requirements laid down by the Planning and Building Act. The plan must at least show the use to which the land is to be put (housing, industry, traffic machinery etc.), the permissible right of development, the principal locations of services, parkland and traffic, the implementation period for the plan and, in the case of housing areas: single- or multi-family housing, type of building, maximum number of storeys, access, parking and main accessory spaces. Plans of this kind may, for example, be used in land allocation competitions for greenfield areas – competitions in which the more detailed design of the plan is an important competitive aspect (see below). It should be added that, normally, the original "flexible" detailed plan is altered and adapted to the winning entry.

The municipality can award its land to the developer or developers of its own choosing – non-profit, co-operative or private. The municipality may also allocate the land after a land allocation competition, in which it invites developers to submit proposals for the development of the land. The developer making the best offer, e.g. in terms of quality and cost, is then awarded the land. Fig. 8 shows how a land allocation competition can be adapted to the detailed plan.



Figure 8. Land allocation competition after adoption of the detailed plan.

The agreements reached by the municipality and developer in connection with an allocation of land are confirmed in a land allocation agreement (*markanvisningsavtal*). This makes provision concerning acquisition of land, the price of the land and other economic questions, the design of buildings and facilities, responsibility for the completion of different measures, and so on.

Case 4

In this model the land is owned by the municipality, which appoints a developer at an early stage of the process. After this the municipality collaborates with the developer in drawing up the Detailed Plan; see Fig. 9.

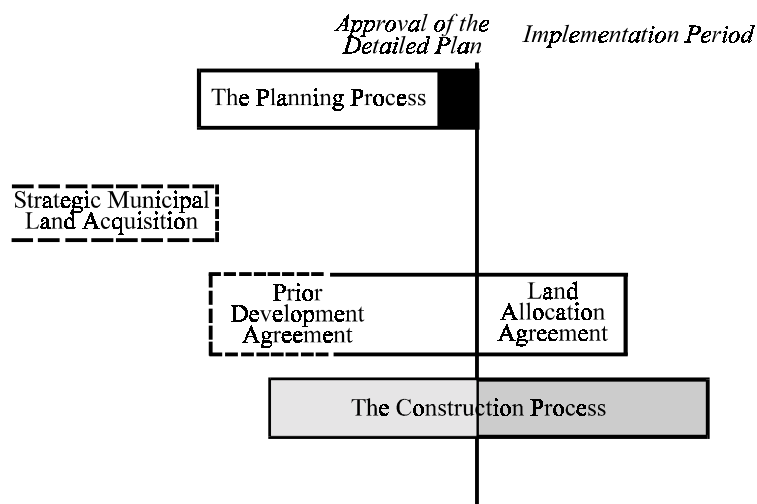


Figure 9. The development process; Case 4.

This model can on the whole be commented on by referring to previous models. The developer becomes involved at an early stage of planning, which means that initiation and completion of the plan comply with model 2. Planning refers to municipally owned land; in other words, land can be acquired in the manner described in model 3. There is, however, one aspect which has to be elaborated somewhat, namely land allocation. The developer, then, is appointed before work on the detailed plan begins. The municipality may then choose whichever developer it finds suitable or else employ a competitive procedure. Fig. 10 shows how this competition can be made part of the process.

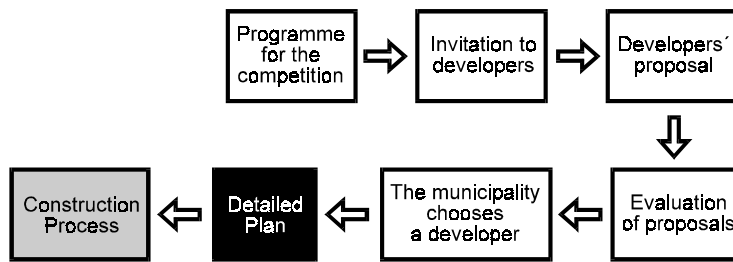


Figure 9. Land allocation competition prior to adoption of the detailed plan.

When the developer has been appointed, an advance agreement (*föravtal*) is often concluded between him and the municipality. Among other things, this agreement may define responsibility for ongoing planning and design work and the allocation of costs between municipality and developer. When the detailed plan has been completed, the final land allocation agreement is drawn up, to settle land transfers, economic questions, responsibility for different measures etc.

Some (very) brief remarks

At the end of this paper it would have been nice to present a decisive evaluation of the different planning and property development processes. That is, to answer the following question; Which process is the best one? However, if anyone had such expectations I have to disappoint him or her, due to the fact that all four processes have their advantages and disadvantages.

Some of these “pros and cons” can be summarised as follows.

- **Case 1**, with (many) “unprofessional” property owners, compromises are required between the emphases of municipal planning and the different interests of the owners. In this respect we may either say that there is a risk that present owners manage to violate more long-term planning goals of the community, or that this is an example of public participation which often results in a good development. However, whatever stance we take on this issue the process is normally very time-consuming.
- **Case 2**, with one professional developer negotiating with the municipality about the content of the plan, financing of infrastructure etc., this is more effective from an internal process view. Among other things we get good co-ordination between planning and construction. But in order to achieve a good long-term result it is important that the negotiation positions of the parties are well balanced. If the position of the municipality is too strong we risk having some developers close up shop or leave the arena to a few, large developers (and thereby we may create an oligopoly). If the developer has a too strong position, on the other hand, we risk ending up with poor developments and land-use.
- **Case 3**, with municipal land allocated to a developer after detailed planning, provides a tool to create competition between developers. But how about co-ordination between planning and construction?
- **Case 4**, with municipal land allocated to a developer before detailed planning, is still a tool to create competition, but here planning and construction can be better co-ordinated.

Finally some general comments on municipal land-ownership. In addition to the above, municipal ownership can be used in order to finance different communal facilities, i.e. through a strong negotiation position the municipality can impose certain conditions in a development agreement. Furthermore, at least in some regions, it is possible to get a good selling price for the land.

**FINNISH SPATIAL PLANNING
AND THE DEVELOPMENT
OF HELSINKI**

Exploitation and Land Use Development in Finland - Helsinki

by Kauko Viitanen¹

Introduction

Helsinki was founded in 1550 by royal order. Townsmen from the older towns were ordered to move in, but they attempted to go back to their hometowns at the first opportunity. For a long time Helsinki was merely a large village. When the Swedes were forced to relinquish Finland in 1809, Helsinki had some 8,000 inhabitants. It was not until the great fire of Turku in 1812, when Helsinki became the capital of Finland, that its population really started to increase, until today there are more than 550,000 in the city of Helsinki proper and 930,000 in the capital area.

When Helsinki was founded the necessary area was bestowed by the state, as was the case in all the other towns until the year 1905. A town plan was drawn for the central area, granting leasehold plots to the townsmen for building. If a plot was not built upon by a specific deadline, the tenant lost his right of possession. Transferring of land which had been granted was forbidden in Finland for a long time, and such restrictions were not abolished until in 1962. Annexing privately owned land to a town was also forbidden until 1926. Expansion of a town outside its granted areas was only possible if an area was first obtained by the state and then given to the town. As to land policy, the situation in towns was quite good until the granted land became insufficient. (Jokiperä 1988; Hyvönen 1982)

Outside the towns the ownership and use of land was not restricted. As urbanisation increased along with industrialisation at the end of the 19th century, unorganised settlement with its social and sanitary problems started to arise. In order to solve these problems and settle the need for urban land the annexation of privately owned areas was also permitted in 1926. The number of towns remained constant during the years 1905 to 1960, after which some new towns were founded. These were, however, no longer given any granted land, so that their situation with regard to land policy is totally different to the so-called "older towns". Of the municipalities in the capital area, Helsinki is the only town which has ever had granted land.

Industrialisation at the end of the 19th century and urbanisation brought rapid growth to the towns, which accelerated still more after World War II. The present structures of the towns were created in this intense process of new building, especially in the 1960s and 1970s. In the 1980s wide-reaching economic changes began to make an impact on the urban structures. Old industrial areas in the centre of the town became abandoned due to, for instance, modern industrial processes and their space requirements. Factories relocated outside the urban areas. Manufacturing industries no longer offered as many jobs, but new jobs were created in services and the public sector. Labour shortages pushed up wages and leisure-time increased. More and more citizens could realise the opportunity of living in a single-family dwelling and new areas of such houses were rapidly built farther away from the centres. New housing

¹ Helsinki University of Technology.

areas were built within the urban structures as well, as rises in land prices enabled the demolition of old structures. Although the depression at the beginning of the 1990s temporarily slowed all building, development is surging again.

If we consider the national urban structure, the Finnish population centres are rather scattered. Population density in urban areas is 500 to 600 inhabitants per km², on the average, while in Sweden and Norway it is 1,500 to 1,700 inhabitants per km². Such development means plenty of scattered settlements, in addition to new residential suburbs, traffic lanes and other infrastructure. This has, in turn, resulted in long travelling distances to work, traffic jams, increasing emissions, and considerably scattered and expensive community infrastructure. On the other hand, although Finland has a lot of land (with an average population density of only 16 people per km²), there seems to be a constant short of lots in the growing urban areas. (Lahti 1996)

Land-use planning in Finland

General responsibility for planning and the development of land use and community structure lies with the Finnish Ministry of the Environment. This includes the direction and supervision of physical planning and building, as well as housing and environmental protection. Guidance, supervision and development of physical structures are, at the moment, mainly regulated by the Building Act, but the new Land Use and Building Act (LBA) will come into force in the beginning of the year 2000. This act and its complementary statute include the main regulations on planning and building.

The present legislation distinguishes between five types of plans: the regional plan, the master plan, the town plan, the building plan and the shore plan. The new legislation attempts to include the three different detailed plans in one concept. There are also two execution plans, plot division, which is used to divide an area into plots within a building block, and the street plan for constructing a street. In addition, the Government will acquire the right to decide the national planning policy guidelines.

The planning hierarchy operates in two ways. A plan drawn on a general level guides the drawing of a more detailed plan. In this way, planning is given a broader perspective, but at the same time it becomes more accurate, as it will result in more detailed plans: they may deviate from the general plan on the ground of more detailed examinations. On the other hand, the more detailed plan supersedes the general plan when confirmed.

All forms of planning are normally legally binding after being approved by a municipal council. No plan as such implies the right to build. A building permit from the municipal building committee is always needed.

The local detailed plan

A single instrument, the detailed local plan, will be used in all municipalities, urban and rural, for regulating the location of functions, size and type of buildings, as well as the formation of the townscape. Municipalities prepare the plans to be approved by the municipal council, either in their own planning offices or through use of consultants. The principle of detailed planning is summarized in the new Act: no significant deterioration in the quality of anybody's living environment may be caused by a local plan without due reason. This provision implements Paragraph 14a of the Constitution, according to which everyone has the legal right to a healthy environment.

The local master plan

The master plan can be fine-tuned according to specific municipal needs. The local council can decide either to draw a more strategic or visionary master plan to coordinate the spatial needs of the different sectors, or it can make a more specific one to guide building quite directly, in which case certain legal implications concerning compensation for decreases in land value are created.

The joint master plan

Municipalities are independent but not isolated: they are becoming increasingly interconnected as networks. Urban networks, like natural protection areas, do not stop at municipal borders. The new Act includes the possibility of preparing joint master plans to promote inter-municipal spatial policies. Municipalities can also establish common development areas, which are eligible for public financing for housing and other measures to boost development.

The regional plan

The 19 regions established in the early 1990s have the right to prepare their own land use plans and create regional development strategies. The regional land use plan is prepared and approved by the regional council and ratified by the Ministry of the Environment. Particular attention is given to ensuring an appropriate regional and community structure, preserving landscape values and ecological sustainability, and providing proper conditions for business and industry. The regional land use plan transposes national and regional land-use goals to the local level.

Transparency and interaction at local level

Traditionally the 452 independent Finnish municipalities, both urban and rural, have had extensive rights to control and guide their own spatial planning and development. According to the new Act, the rights of local authorities are further extended, although increased rights will lead to increased responsibilities.

The key actor in a municipality is the elected local council. With local master plans and local detailed plans the council can decide on the location, size and quality of public spaces, housing, industries, services, green spaces, recreation and environmental protection areas, and traffic arrangements. The council holds full responsibility: local land-use plans are not subject to the approval of others tiers of the administration. However, during preparation of plans, the regional environmental centre has to be consulted with regard to the national guidelines or other broader issues.

Depending on the political will of the council, the new system provides a comprehensive set of planning instruments for securing sustainable development in the municipality. The master plan is the tool for the general strategic guidance of land use. The new Act states that the local master plan is to promote a well-functioning and economically sound community structure, good access to services, and the conservation and maintenance of the natural and cultural heritage. Traffic planning is to be more effectively integrated with the other land-use requirements. A municipality can even influence the market forces through planning. For example, the Act gives the council planning instruments to determine the location of hypermarkets in order to prevent urban sprawl and keep inner cities livable. (Reform in the Land Use Planning System 1999)

Plan implementation

Fundamentally the implementation of a plan is the task of the landowners in areas for private buildings, and the duty of the municipality, state or other public body in areas for public buildings and public use. A detailed plan entails no obligation for building private plots, but the municipality has the right to give a request for building and initiate expropriation. However, by agreement the landowner can be obligated to build. (Hyvönen 1982)

The municipality has to draft and up-date the local detailed plan as required by the development scheme of the municipality or by the need to steer land use (LBA 51, 177 §§)². Once the plan has been legalized the local authority is in charge of implementing the streets and other public areas (LBA 84 – 86, 90, 179 §§). The municipality is also responsible for construction and maintenance of water supply and drainage in a detailed plan area. Connection to these networks is normally compulsory if a building has been built according to the plan. The municipalities are also responsible for waste disposal in their area according to the Waste Disposal Act.

The municipality is normally responsible for the costs of planning and the construction of public areas and other necessary infrastructure. The landowner is obliged to surrender areas needed for streets to the municipality without compensation according to the first local detailed plan or pay compensation for the street area (LBA 104 – 105 §§). However, the area transferred without compensation shall not exceed 20% of the total land owned by the landowner in the plan area in question, or no larger than the building volume permitted for the land remaining in his/her ownership. The landowners were earlier obligated to pay street fees for street management to the municipality but this was replaced by real estate tax in 1993. The real estate tax is also paid to the municipality.

For joining and using water supply and drainage networks, property owners have to pay, normally to the municipality. The connection fee is to cover the construction costs and the user fee covers the maintenance costs of the network and the cleaning plants. User fees are based on the amount of water used on the property. In sparse settlement and shore plan areas, water services may be provided apart from municipal networks.

Construction, maintenance and payments for other networks serving the community, such as telephone, electricity and heat, are private matters. Sometimes the conduits for telephone, electricity, heat, lighting, and private and public drainage serving a property or the community have to be built on private property. The property owner has to allow this, if the conduit cannot be built on public property at reasonable costs. Property so burdened entitles the owner to compensation.

New development requires a building permit. The developer must make an application to the municipal building authorities. Exceptional permits can be granted by the municipal government or the Regional Environment Centre.

Possibilities to promote plan implementation

In addition to its planning responsibilities, the municipality has a central position in promoting plan implementation. In areas it owns the municipality can implement the plan as it wishes, which is why municipalities often acquire the planned area before planning. Besides planning agreements with the landowners the municipality can use many compulsory methods for land acquisition and for promoting plan implementation. Landowners also have some

² However, in the shore areas the landowners may take charge of drawing up a proposal for the detailed shore plan. The implementation and maintenance of these areas also rest with the property owners. (LBA 74-75 §§)

means for promoting implementation (e.g. the right to expropriate a part of a plot). In addition to these there are many special restrictions to prevent development which may complicate planning or plan implementation. The new Land Use and Building Act does not abolish the traditional right of the landowners to build isolated buildings without a land-use plan. However, if matters seem to be getting out of reasonable control, the Act will give the municipality the right to define the location in question as a planning requirement area (LBA 16 §). The involved parties then must negotiate to regulate development. This instrument is to be used mainly in the outskirts of urban areas.

Expropriation

In Finland the citizen's property is protected by the constitution. The Constitution Act includes, among the other things, the basic provisions for expropriation. This act establishes that a normal law can only direct expropriation which is meant for a common purpose with full compensation. Expropriation is usually executed for public needs and based on a permit given by the government or on a confirmed plan. It is performed by the National Land Survey and the compensation is the current price, sometimes excluding the rise in value. By expropriation it is possible to:

- acquire the ownership of real property, or permanent or temporary limited right to it;
- limit the right to use or possess the real property or limited right;
- repeal limited right.

The Expropriation Act is a general act related to expropriation. There are enactments in several other acts that enable expropriation in special cases.

The Finnish legislation makes it easy to use expropriation. Besides the normal expropriation according to the Expropriation Act the municipality or state has the right to expropriate land for planning purposes according to the land-use and building legislation. For example, within the local detailed plan areas, the municipality may, without a specific permit, expropriate public areas and plots for public building based on the local detailed plan, which the plan designates to a municipal agency (LBA 96 §). When general need so demands, the Ministry of the Environment may permit the municipality to expropriate an area needed for community construction and the related arrangements, or for other planned development by the municipality (LBA 99 §). The Ministry may also authorise an authority implementing a plan to expropriate an area included in a regional plan, if this is required for implementing the regional plan in order to meet the common needs of the state, the region, or the municipality. Further, the Ministry may grant the municipality a permit to expropriate an area designated in the local master plan for a thoroughfare, housing development or other related community construction. In addition, the Ministry may grant the municipality a permit to expropriate a building block or other area included in the local detailed plan, if such is justified for the purpose of implementing the plan, and if the public need so requires (LBA 100 §).

Expropriation is carried out by the National Land Survey Authority in an expropriation survey by an expropriation committee headed by a land surveyor. The survey normally takes less than a year. Although expropriation is a simple process it is not often used because of its political unpopularity in the municipalities.

Reminder to build

A summons to proceed with the building process can be issued according to the building legislation. After the local detailed plan has been in force for at least two years, the municipality can issue an owner of a plot with a reminder to build, if the plot has not been developed according to the plan. If the plot still is not developed according to the plan within three years after the reminder the municipality is entitled to expropriate the said plot without special permission within one year from the end of the period reserved for building. (LBA 97 §)

Pre-emption

The municipality has the right to pre-empt certain real estate purchases according to the Pre-emption Act. This means that the municipality replaces the buyer named in the deed of sale on the terms mentioned in it. The right to pre-emption can be used for acquiring land for building on the basis of a plan, recreational or conservational purposes. The object of pre-emption can be real estate, a share of real estate, or an undivided parcel of land. The land area of the property must exceed 5,000 m² (in the Helsinki area 3,000 m²). The municipality must inform the buyer, the seller and the local court that it intends to use its right of pre-emption within three months from the attestation of the conveyance.

Special development areas

The emphasis in the Finnish town planning is now on urban infill development, repair and renovation, as well as on parks and recreation areas. A new element in town planning will be the possibility of the municipality to define special development areas where specific measures are needed, e.g. renewal, protection or improvement in the municipality (LBA 110 §). Undeveloped areas can also be designated as special development areas where such is necessary due to housing or business policies, and special development or implementation measures are required because of fragmented ownership or property structure. In special development area the responsibility for implementing the area can be delegated to a body established for the implementation, and the benefits gained and costs incurred from the development may be distributed between the municipality and the property owners in a separate urban land readjustment procedure. The municipality may also be entitled to collect a reasonable development charge based on the landowners' gain and use pre-emption without restrictions in 5.1 § of the Pre-emption Act. In addition, special housing or business policy support measures can be taken in the area. (LBA 112 §)

Other tools to promote the plan implementation

There are also some tools in the Real Estate Subdivision Act for promoting plan implementation. The most important special tool in practise might be the landowners' right to expropriate the remainder of a plot in a local detailed plan area. The owner of the most valuable part of the plot has the priority to expropriate. The most comprehensive tool is the urban land readjustment procedure in an area enabled in a detailed plan, but the procedure has not been used during the three years the Act has been in force. (Viitanen 1999)

Land-use agreements

In Finland planning is society's responsibility, and applied through the planning monopoly of the municipalities. There is no system of planning permits, but land-use agreements are normal practice. Land-use agreements state the provisions of civil law applying to the municipality and the landowner about planning or the implementation of a plan or both of these. The situations and the conditions needed for the agreements vary a lot. There are no special regulations guiding these agreements but in the new Land Use and Building Act the agreements and their limitations are mentioned: agreements made by a local authority regarding planning and the implementation of plans do not override the objectives and content requirements of planning laid down in this Act (LBA 11 §).

Typical targets for land-use agreements are planning changes, small parcels of raw land, and the implementation of various kinds of projects, such as planning for setting up holiday districts, tourist centres, factories and business centres. The agreement usually includes, for example, details of the area involved, of planning and payment of planning costs, the estimated amount of building rights to be planned, timetable for building, building and paying for the infrastructure, principles of conveying areas, dwelling production, securities and sanctions for breaking the agreement.

The urban property market

In Finnish legislation the word real estate (*kiinteistö*) means a registered area of land including the buildings on it. Buildings built on leased land, for example, are legally considered as movable property, though often called real estate in practice. Real estate or buildings can be owned directly as a property (having a title to the property) or in the form of real estate security (usually ownership of shares in a real estate company or a residential housing company). The company form is more preferred where larger buildings are concerned due to greater flexibility in managing and closing deals concerning the ownership and the lower stamp duty in transactions (4% and 1.6% respectively).

The urban property market in its widest sense includes renting, selling and investing in land, buildings and flats.

Ownership structure

Private ownership has been the primary form of real estate ownership in rural regions, whereas urban areas are characterised by considerable municipal ownership. According to the statistics of the National Land Survey of Finland, private individuals form the largest land-owner group in the whole of Finland. They own 61% of the entire land area. Other owner groups are the state, with a share of 29%, companies 8%, municipalities 2%, and churches 1%. In the town and building plan areas, the city or municipality normally owns 30–40% of the land area.

Of the total building stock the major part (77%) is also owned by private individuals. Housing companies and co-operatives own 8%, property companies 2%, private enterprises 4%, municipalities 3% and religious bodies and foundations 1% of all buildings. Other owners include government enterprises, banks, insurance institutions and the state with shares of less than 1% each of the total building stock.

The market situation

In the early 1980s the real estate market in Finland was quite stable. The price level increased steadily with a nominal increase of 8 – 9% per annum, while the inflation amounted to 6 – 8% per year. The regulated monetary market situation changed radically in the autumn of 1987. The stock exchange experienced a fall and the monetary market was liberated at the low interest rate of 11%. This caused a boom in the real estate market. Alongside the traditional property investment there were investments based on fast short term acquisition with borrowed money and ambitious developers. Demand competition began and the yields fell to a low level compared to other states, and prices exploded, especially in the Helsinki region.

The boom ended during the winter 1989 – 90 for the most part, and one of the main reasons was the high price of money (interest rate 15%), the collapse of the Soviet trade, and the overvalued currency. These higher finance costs created negative cash flow and therefore the supply in the market increased. Another reason for the increase in supply compared to demand was the deregulation of the currency rules by the Bank of Finland, which made possible property investment abroad.

At the beginning of 1990s Finland suffered a deep recession; GDP fell and unemployment increased from 3.5% to almost 20%. Interest rates had been very high, but these fell sharply in 1993 and the interest rate has been low since. Yields from real estate investments increased simultaneously because of the falling prices, but decreased as prices rose in 1994–96. In recent years the real estate market has been very active, especially in the main cities.

Residential market

The total number of dwellings is almost 2.5 million. Blocks of flats and detached houses constitute about 45% and terraced houses 10% of the total dwelling stock. About two-thirds of dwellings are privately financed and the rest subsidised. Nearly half of the apartment blocks are on housing estates built during and after the 1960s.

Most Finns now live in dwellings of their own, about 70%. However, during the past few years interest in rental housing seems to have increased. More alternatives have entered the dwelling market in the 1990s, in the form of proprietary right and partial ownership dwellings. In both cases, the resident has to pay a first instalment of about 10–20% of the total market price. The monthly housing costs are approximately on the same level as for rented dwellings. The owner of the partial ownership dwelling normally has an option to buy the rest of the dwelling.

The majority of all real estate purchases are single family houses with yard. Because of the differences between the houses (e.g. shape, age, size) their average price is less indicative than for apartments. Prices of dwellings rose almost steadily throughout the 1980s until 1989 when they fell into a steep decline. After 1993, flat prices picked up and are again at a high level. The median price of apartments with the greatest turnover – two-room flats – is about FIM 12,000/m² of floor space (i.e. EUR 2,000) in Helsinki. (Statistics Finland)

Residential Rents

The free market for rental residences has been limited. Most rental dwellings have been built with state subsidies since 1960 by municipalities and non-profit developers. Residents in these dwellings have been selected based on social considerations. The most obvious reasons for the low number of rental dwellings on the free market were the regulation of rents, protection of the tenant against eviction, and strong fluctuation of the prices of the apartments. Rent controls have now been relaxed. Income from rents was previously highly taxed, but in 1993 investment income taxation rules changed and tax on rental income became the same as for other investment income (in 1999, 29%). These changes in legislation have brought new dwellings into the rental market. Also, many investors have bought dwellings, as the yield from invested capital is higher than, for example, the interest rate on deposits.

Residential rents have been rising steadily since 1966. Currently the rents for non-subsidised dwellings average FIM 43/m² of floor space/month (EUR 7) and for subsidised dwellings FIM 37 (6 EUR). The highest non-subsidised rents are paid in Helsinki, with an average of FIM 86/m² floor space/month (13 EUR) for new free-market tenancies of one-room (studio) flats. (Statistics Finland)

The commercial real estate market

At the beginning of the 1980s, the commercial real estate market could be described as small, closed and stable. Property buyers were mainly large institutional investors and companies buying facilities for their own use, prompted by steadily increasing values and good protection against inflation. The risks were thought to be minor, and investors rarely tried to analyse them systematically.

The market situation changed radically in the autumn of 1987, when a boom in the Finnish real estate market started and many new investors entered the market. Commercial property prices and rents rose and yields fell at the same time. After “the crazy years” of 1988–89, the recession caused prices and rents to fall. There has been revival of the business premise market since 1993. The demand for the real estate investment marketing surveys has clearly increased. Today’s market for business, office, and industrial space depends primarily on renting, with purchases relatively more rare.

The supply of office, business and industrial space has significantly increased since the beginning of the 1990s. The basic factors influencing the attractiveness of real estate investment were showing clear signs of improvement in 1996: the nominal interest rate has dropped and rent levels for desirable locations and property types are clearly rising. In September 1990, the vacancy rate of office, business, and industrial space was about 5% of the total metropolitan area. In the autumn of 1993 the amount of vacant space was 9%, but by September 1996, this had fallen to 5.6% and to less than 2% in September 1999. Vacancy rates have fallen also in the biggest provincial cities. (Catella 1999)

Local land policy is quite an important factor in the commercial land market in the cities. Industry and other businesses usually bring jobs and tax income to a town. In many towns, the local government may grant or rent business sites almost free just to get firms to locate in the town. For example, the City of Helsinki has, since 1960s, used mainly renting to provide business sites. To the City of Helsinki the renting policy has been the most profitable, from an economic and land-use guidance point of view. Helsinki has normally sold land only when it has been a question of a part of a site or exchange of land. At the beginning of the 1990s Helsinki started to sell more sites for business and office purposes than before, but it follows some basic principles in selling, the main one being selling at a current gross floor area price. The rent level is also linked to the price.

In the business and office site market, the extent of building rights, not the size of a site, is usually negotiated. This is understandable, because building is normally in the buyer's interest and he/she is willing to pay for that possibility.

Prices and rents of commercial premises

The rents and prices of office, shop and industrial space rose for practically the entire 1980s. In 1990 they started to decline and in 1993 began slowly to rise once more. Highest rents and prices are paid in the centre of Helsinki. In the autumn of 1999 the average rents for office space for the new leases in the CBD in Helsinki were about 300 EUR per m² of floor area per year. The selling price was about EUR 4,000 per m² of floor area. (Catella 1999)

Construction activities

In the 1970s and 1980s, about 40–50 million m³ of new buildings were begun per annum. In the late 1980s production increased considerably in all parts of the country. The overheated situation began to cool down in 1990, and a sharp contraction followed. The volume of buildings completed fell to less than one-third of what it had been in 1990. Building starts represented a volume of just under 25 million m³, the lowest figure since the 1960s. By 1997 a clear recovery had started in the main cities.

Residential production

Since the beginning of the 1970s Finnish residential building production has been greater in proportion to population than in other European Countries. Despite this, the residential density is above the average for the Nordic countries. Housing production varied between 32,000 and 44,000 units per annum during the 1960s. A record of 74,000 units was reached in 1974. The average production has been around 45,000 new homes annually. In the peak years, dwelling production increased considerably. Over 65,000 dwellings were completed in 1990, but in 1993 the total amount was about half of that. A total of no more than 18,300 dwellings were started in 1995, the lowest figure recorded. At the moment there is a great shortage of dwellings in main cities, but dwelling production is still at a relatively low level, about 30,000 dwellings per annum. (Statistics Finland)

During the 1960s and 1970s, 70% of the new dwellings were in blocks of flats. The amount of detached, semi-detached and terraced housing increased to become two out of every three new homes in the late 1980s. The slump in building production has especially affected the

production of terraced houses. During the period of the residential construction boom in the late 1980s, non-subsidised production increased notably, while the level of subsidised production remained steady at 18,000 dwellings a year. Thus, the proportion of subsidised production fell to less than one-third of the total output in 1989. In the time of receding trade in the 1990s, the main part of dwelling production has been subsidised.

Other building production

The recession at the beginning of the 1990s affected other building more than residential dwellings. The main reason for that is a high vacancy rate. For example, in Helsinki the business premise area increased about 2% per annum for almost two decades. In the 1970s premise space production was a little less than 300,000 m² gross floor area per annum, in the 1980s the amount was almost 400,000 m². About one-third of the total building area was offices and shops and one-fifth was industrial. The emphasis of building production has changed during these decades. In the 1970s business premises production emphasised industrial space, but in the 1980s large shopping centres and luxurious office blocks were built. Between 1990 and 1992 many new business buildings were finished, but at 1992 production was at a ten-year low. Since the mid-1990s building production has risen again, not least due to the success of Nokia.

Case Study: Renovation of the Sinebrychoff block in Helsinki

The so-called Sinebrychoff block is situated on the outskirts of the Helsinki city centre. The block was occupied by the Sinebrychoff brewery from 1819 until 1993. When the brewery left its overcrowded facilities a considerable part of the buildings were demolished. Some of the buildings were, however, retained and renovated as office space. There is a wide network of underground cellars underneath the Sinebrychoff block. (Pirinen et al. 1997)

Project start-up and planning

Old and effective industrial plan

At the cessation of the brewing operations, the existing town plan, ratified in 1966, classified the block as an industrial building. According to the town plan and the building ordinance the block consisted of one plot with the permitted building volume of 95,503 m² of floor space and a plot ratio $e = 5.25$.

Development plan

In 1988 the company started to make preliminary plans for the exploitation of the block in accordance with future alterations to the town plan. The development plan was made by an architect specifically engaged for the project and proposed changing the site into a block of residential, office and business buildings with a given target of permitted building volume. The principal ideas, such as plot use and distribution of the various operations, were also initially discussed with the City of Helsinki.

Real estate transaction

On the basis of the preliminary development plan the company started to look for a partner for the realisation of the plan. This was at the height of the boom. In December the plot was purchased by three companies, Rettig Yhtymä (6%), Sampo Vakuutusosakeyhtiö (45%) and Tarkala Oy (49%), based on the preliminary development plan. The purchase price was conditional upon the permitted building volume assigned to the plot by the alteration of the town plan.

Project contract between the owners

After the transaction the preliminary plans were further developed jointly by the partners. Their business idea was to have as much effective building on the plot as possible, while still preserving certain old buildings. The owners concluded a mutual project contract, which was already prepared before the transaction. The conditions for apportioning the plot and the related rights and obligations determined in the contract included:

1. determination of the pricing principles;
2. apportioning the shares of ownership;
3. realisation.

Organisation of the renovation project

At the initial stage of the project the development work was carried out jointly by the owners. At a later stage a consultant was engaged for the project, who was to act as a specialist and to take care of practical matters. The consultant was also in contact with the necessary authorities, especially those in charge of planning. It was at the initiative of the consultant that the architect who had prepared the preliminary development plan was replaced by another architect who had better contacts with the civil servants and planners of the city.

Alteration of the town plan and planning contract

Negotiations on the alteration of the plan and the planning contract

Since the autumn of 1989 to January 1991 the owners of the plot had been negotiating with the City of Helsinki on alterations to the town plan and the planning contract on the basis of the development plan. In January 1991 the parties made a preliminary agreement on the contents and structure of the planning contract forming a basis for the planning of the area. The preliminary planning contract included, for example, a preliminary contract for exchanging street and plot areas between the owners and the city.

The town planning was carried out in mutual understanding until the city council returned the plan for reparation. The plan proposal was substantially modified, and the city council approved the modifications. In November 1992 the city council approved the altered proposal, although the plan did not fully correspond to the statements given by the council when first returning the plan for reparation. The last-minute modifications came as a surprise to the owners and caused delays to the planning schedule. Modifications concerning the above-ground operations and locations of the buildings had considerable impact on the planning and did not meet the primary goals of the owners. Plans for the underground parking area had to be reconsidered and the planning contract with the city had to be renegotiated.

Contents of the planning contract

The final planning contract was signed in March 1993. The preliminary contract on exchanging certain areas was annulled. The city gave a minor part of a street area for the plot in return. Under the contract the city collected compensation from the owners for promoting the building project, i.e. a planning fee. The parties agreed that part of the planning fee was to be covered by the actions and commitments of the owners in favour of the city at the realisation stage. According to the planning contract the city was given space amounting to 1,100 m² in the existing renovated buildings. In addition, the owners undertook to provide parking in the underground spaces so that a radiation shelter for 3,000 people could be accommodated. The planning contract further included obligations on the environment set by the city: the owners undertook to extend the covering of the tunnel in Mallaskatu street by some 40 metres and to landscape the upper part of the street as a park.

Contents of the altered town plan

The alteration concerning the Sinebrychhoff block gained legal force in September 1995. The plot of some 1.8 hectares was divided into two sections, so that the first one was mainly a block of residential buildings and the second one was assigned for office and business buildings. The plot ratio was $e = 3.08$ according to the plan. The plot had a total permitted floor space of 56,024 m². The permitted building volume for residential building and office and business building covers 51% of the total permitted building volume. The rest are cellar and parking spaces.

Citizens' complaints about the town plan

The neighbours and the residents' association protested at the alteration to the Ministry of the Environment and further to the Supreme Administrative Court. Their complaints were mainly based on the permitted building volume, which was considered too large, and the incorrect handling of the plan by various organs of the city. The Ministry of the Environment and the Supreme Administrative Court both rejected the complaints due to the fact that, for instance, a densely built block is justified in such a central area and the building volume does not differ from the surrounding volumes. The processing of complaints took nearly three years.

Realisation of the project

The building project was started in 1997 and is still going on.

Co-operation between the owners and the city

The role of the city in developing the block has mainly been to act as the planning authority for the area. The rest of the planning and design was already in process when the city joined the project. City interest in the renovation project has mainly been to exploit an empty plot within a city structure. For the real estate owners it was important to get the area into effective and profitable use. The initiative for developing the area was taken by the owners.

The planning authorities and the real estate owners agreed unanimously on the contents of the town plan. The distribution between the various operations was affected both by the planning principles of the city and the goals of the owners. The city generally aimed at supporting residential building, so the share of residential building was increased and the plot ratio was decreased as compared to the original ideas of the owners.

There were disagreements between the owners and the city at the final stage of planning when the city decided to change the location of both operations and buildings. In the opinion of the owners the extra work caused by the alterations – for instance, the renegotiation of the planning contract – delayed the plan by an extra year.

Contract on appreciation

In April 1990 the city council of Helsinki made a decision on appreciation, according to which a fee is to be assessed on all major planning projects causing appreciation to a private party through planning. In the case of the planning of this block, the authorities had to make a contract with the owners on this fee before the alteration of town plan could be taken to the city council for approval.

Negotiations on the planning contract were long and difficult mainly due to the said appreciation. In addition, the negotiations had to be repeated because of the alteration of plan. The negotiations went on intensively for a couple of years.

When negotiating the planning contract the city did not set grounds for assessing the amount of the appreciation. Nor did city authorities have a clear idea of the amount of planning fee they should be collecting. The first suggestions by the city were far too high for the owners, who felt themselves on the defensive at the negotiations: where there is no agreement as to the fee, the area will not have a town plan. The city authorities also found collection of the planning fee to be problematic, due to, for instance, the lack of clear accrual basis.

The city council has subsequently adopted specific rules for appreciation. According to their decision there will be no fixed charge, but each case will have to be negotiated separately. The calculation principles and amount of appreciation have been approved on the board level.

In the owners' opinion the planning fee collected for appreciation had no grounds. According to the plan there is no need for making new infrastructure in the block area by the city, so that collecting the planning fee in this case was clear income to the city. The owners thought a planning fee would be acceptable when based on actual expenses to be borne by the city through planning privately owned land. Their opinion has gained support by later decisions of the Supreme Administrative Court and the Supreme Court (in different matters, though).

The role of the municipality in renovation projects

Both the real estate owners and the city generally experience their joint negotiations as flexible and easy. In the opinion of the real estate owners' representatives, difficulties are often caused by the fact that the actual final power of decision in planning and the related matters rests with elected officials and not with the negotiating and preparing civil servants. The outcome of the negotiations is therefore not predictable, causing financial risks to the owner, who usually has a considerable amount of resources already tied up in the project at the planning stage, and the outcome is most uncertain.

According to the owners' representatives, the municipality should be better involved in the planning of a renovation project. Project planning should include certain intermediate phases, in which certain matters are decided upon by elected officials or by the authorities. These matters then cannot subsequently be altered without sanctions. The risk of the office-holders or elected officials of high standing being replaced would thus be eliminated by phasing the decision-making. The actions of the municipality towards the landowners should be more predictable and adaptable in general.

According to the representatives of the City of Helsinki the renovation projects of the past decades have mainly been profitable to the city. City costs were limited to the streets and the municipal engineering. The city has also supported the projects by giving compensation to the planning fee, when the projects have included infrastructures favourable to the city and built by private parties, for instance underground tunnels to the urban centre.

In the opinion of the representatives the city cannot do much else for encouraging good projects than to supply municipal engineering earlier. The municipalities should, however, have access to other incentives as well, for instance ones related to taxation. The municipality could also be more actively involved in private development projects, for instance by situating parks and public services in these areas. The representatives of the city think that the attitude of the municipalities should be more positive in general. The municipalities should think together with the landowners about what could be done in order to create development projects profitable to both parties.

Increasing the efficiency of planning

According to the representatives of the landowners the final planning objectives should be decided upon in a binding manner at the earliest possible stage of planning, before too much resources are tied up to the project. This could be carried out by making the planning decisions earlier.

According to the owners, due to the planning monopoly of the municipality, alterations to plans plan, especially during the planning processes, are greatly dependant on the activity and willingness of the municipality. Conflicts of interests with the municipality may arise, for instance, if it is in the interest of the municipality to market its own real estate in competition with private real estates. In competition with the municipality the landowner is not in an equal position. Should the municipality not be willing to start planning the renovated area, the landowner should have the right to have the suitability of the area and the up-to-dateness of the general plan tested, for example by superior authorities. There should be, in other words, a possibility for testing the conditions for planning outside municipal decision-making. (Pirinen et al. 1999)

Conclusion

This paper shows that the Finnish property and construction market has been very cyclical during the past decades. The recession in the beginning of 1990s was deep, but the recovery has clearly started, and the market perhaps even become overheated again. At the beginning of the year 2000 we shall have the new Land Use and Building Act. In many respects, the new legislation introduces relatively small reforms, although there are elements which can bring about big changes, too. The special development areas, for instance, might enable the municipalities to steer the development activities very strongly. On the other hand, the reduced power of the state officials in local planning can still be very strong in practice, perhaps even stronger than before, because it is not easy to give up one's power. We shall have to wait and see what happens.

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Competition and Development in the Role of Planning

by Christer Bengs¹

Introduction

This contribution is an attempt to discuss planning in the context of housing provision and to point out some of the effects of monopolised development patterns. The specific example chosen as an illustration is Helsinki, the capital of Finland, and its surrounding region. At the same time, the discussion adds a rejoinder to current debate on housing questions in booming economy. The arguments presented aim at unveiling some aspects of housing provision which raise questions about the logic of the system. Those who are interested in pursuing the empirical arguments are referred to the appended list of literature.

Current problems

At the moment the Helsinki region is undergoing an economic boom, characterised by increased demand for labour, a strong influx of newcomers from other parts of the country and a growing demand for housing, all of which have triggered a strong rise of rents and dwelling prices. The unbalanced market has once again been the focus of extensive public debate. General amazement has been expressed at the unacceptable prices and the shortage of dwellings. The professionals of the housing provision sector have responded by referring to the shortage of land available and ready for construction and the need for stepping up the preparatory process. All of which seems understandable enough, but in order to gain a better perspective of the situation a short reference to previous booms is appropriate.

The present boom is the third, very powerful upsurge during the last thirty years. The first boom took place from 1972 to 1974, under conditions similar to the present one. The second boom emerged in 1987 and lasted to 1990. In both cases the shortage of dwellings and strong price increases resulted in huge discussions and demands for expanded housing production. In 1989, the year when the production figure of dwellings was the second highest ever in Finland, the central labour market association organised a one-day general strike to demand increased housing production. On the other hand, it would appear that, during recessions, the country is fairly satisfied with the housing situation and falling production figures, while the seeking of new dwellings increases in synchrony with the factual increase in production. Indeed a very strange phenomenon!

The problem of unbalanced migration patterns and housing shortages is of course inherent in the fluctuating business cycle. During the relatively limited boom period the market cannot react quickly enough, as dwellings cannot be produced overnight. An increase in production is generally achieved when the demand peak is already passed and a synchrony between demand and supply is reached only during the closing stage of a boom. The subsequent decrease in demand is not primarily the result of increased supply but an effect of a nascent regression of the economy, reflected in reduced influx to the region and reduced purchasing power. Booms simply cannot be handled by instant surplus production, at least not in a provision system where huge commercial developers are key actors. Nor can dwellings be pro-

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duced and stockpiled due to the obviously unacceptable additional costs this would entail. So what can be done if we take the past fluctuations of the economy and phases in the business cycle as a prediction for the future?

System for housing provision

Actually the Finnish system for organising housing provision has been very sensitive to potential speculation profits arising from the business cycle. Viewed nationwide, the proportion of state-financed housing has fluctuated according to the economic up- and downturns, expanding during recessions and decreasing during booms. As the state-financed production implies a certain amount of price control it has been in the interest of the major housing producers to expand privately financed production during booms in order to take advantage of profit expectations due to rapidly growing prices. During recessions the state-financed sector has guaranteed a stable and comparatively high price level, which in the region of Helsinki has been very much the privilege of a limited bunch of so-called non-profit developers, linked to the big construction firms through ownership and various agreements. While general housing prices follow the country's economic situation, the state financed production prices have shown a modest but steady rise, even during recessions.

Large developers have tried to build up their production machinery in accordance with the demand for quick reactions to the various phases of the business cycle. Finland is the only Nordic country where prefabricated panel production is predominant. This system is, to a certain extent, a type of stockpile production, enabling very rapid erecting of buildings when necessary. This technical solution corresponds to the streamlined speculative system for housing provision that sets Finland apart as compared to the other Nordic countries.

While this swapping between state and private financing of the production depending upon the economic prospects has served to ensure maximum profits over time, the system of applying development contracts as the basis for extensive construction has established local production monopolies and excluded smaller producers from the housing market. A development contract is an agreement between the municipality and the developer concerning the development of a given territory. Generally speaking, these contracts have been fairly unspecific, giving the developer a relatively free hand to carry out the contract as he sees fit (or in accordance with his best interests), so long as the prescribed overall amount of square metres of dwelling is provided. The results, as evidenced by the built-up areas around the capital region, do not exhibit significant aesthetically or environmentally positive qualities. In addition the practice of development contracts has contributed to urban sprawl that is currently the burden of the municipalities and inhabitants in terms of everyday operational costs.

Why have the municipalities of the Helsinki region chosen to base the development of the region on development contracts? The official explanation stresses the advantages for the municipality, such as placing the burden of internal infrastructure construction on the developer. According to law, providing municipal amenities is the responsibility of the municipality, but in the case of contract-based development responsibility for construction has been transferred to the developer.

One could then reverse the question, and ask why the developers, as contract partners, agree to carry an economic burden that by law should be carried by the municipality? The answer is fairly simple; the developers have gained a lot by the established contract practice. First of all, contract-based development means the establishment of local production monopolies, as the developer who signs the contract gets the supreme right to produce within the contract area. Secondly, the costs for producing the internal technical infrastructure and amenities within the area represent only a fraction of the cost of buying ready-to-build plots. Under this arrangement, the developer starts by purchasing so-called raw land or agricultural land (not zoned for development), which is subsequently planned by the municipality only as a result

of the development contract. This means that total land costs for the developer is around one-third of what it would have been if the developer had had to seek land already zoned for development with an existing technical infrastructure. What at first seemed to be a cost-saving device for the municipality actually turns out to be a heavy economic burden in the long run.

The system of development by contracts is, of course, based on the municipal planning monopoly. From a legal point of view, development can take place only on land planned by the municipality and provided with technical infrastructure. De facto, much of the development in the municipalities (Espoo, Vantaa) adjacent to the municipality of Helsinki has taken place ad hoc, based on singular contracts. According to legislation, planning should proceed from overall plans through successive detailed plans and end up with a building permit that can be issued only where a town plan is endorsed. In practice, much of the development has proceeded in the opposite direction. Relying on fairly rough sketches provided by the potential developer, a contract between the developer and the municipality has been drafted and the factual development has started with house construction based on extraordinary building permits. In the second phase town plans have been endorsed which include what are now already existing residential units and, in the third phase, these town plans have been incorporated into the master plan of the municipality. In the final phase the master plans are integrated into the regional plan.

Anyone who has visited the region of Helsinki is confronted with a structure of transport corridors and scattered development that does not seem to make much sense at all. Which is not surprising, perhaps, as the development of the region has not been based on overall rational considerations. During the post-war period the planners have had to try to make some sense out of the whole while development seemed to run ahead of them in the form of rapidly erected residential blocks, scattered in the woods and fields of the region.

Although the housing provision system of the region has evolved primarily in order to take advantage of the potential profits offered by economic fluctuations according to the business cycle, every boom seems to give rise to dissatisfaction among the general public. The problem can be traced to the question of provision of land. During booms there is said to be a lack of land ready for construction. The lack of plots is considered to be the bottleneck of development. In actual fact, land is available for development and the existing town plans include a potential building volume that could easily match the housing demand. The problem is that this land is not in the possession of the municipalities, but is rather controlled by a very limited number of large developers. When the situation was studied in detail some ten years ago, with respect to the actual controllers of the planned construction potential, it turned out that a handful of the largest developers controlled one-third of the potential, medium-size developers controlled another third and the municipalities the rest. The actual development of the region is thus simply not in the hands of the municipalities.

Alternative possibilities

Are there alternative ways of organising the system of housing provision? One fundamental precondition for an alternative system would be a complete change in the land policy of the municipalities adjacent to the municipality of Helsinki, which are presently characterised mainly by their lack of such policy. The relative share of budgetary means for land purchase is practically negligible. Therefore, these municipalities have been forced to rely on planning land owned by developers. This practice is not likely to change overnight, as both developers, the construction industry and the influential political parties and politicians seem to have gained a lot by it. The development business is vulnerable but one of the most profitable sectors when the economy is expanding. In addition, it is bound to political decisions both on national and local level. On national level the guidelines for housing policy are of crucial importance, on the local level municipal decisions are decisive for land development. This has resulted in a very active contact between the construction lobby and the most influential par-

ties. There is a saying that the “construction party” is represented in all parties of any importance.

One alternative could be the promotion of development based on small-scale development and the services of small contractors. This model would imply a land policy where the municipalities would actively purchase land and focus primarily on planning land in their own possession. Such a system would clearly have quite a few advantages over the present one:

Firstly, an active land policy on behalf of the municipality and planning of municipal land would provide the municipality with the possibility of developing its territory in an orderly manner, synchronising its construction activities with those of other municipalities in the region. A more rational urban structure would reduce operational costs and balance threshold investments.

Secondly, development could be operated piecemeal and the smaller scale would result in more attractive living quarters and milieu. A municipal-led provision of building land would also provide the municipality with means both to apply environmental standards and exercise control of price formation by issuing tenders.

Thirdly, tender-based development would have a long-term positive effect on price formation, as enhanced competition would result in more productive construction methods. In addition, small-scale development would facilitate rapid response to changing demands and provide flexibility to adjust supply to demand.

A fourth possible benefit would be to reduce the inclination towards corruption in the political system which exists under the present practice. It would also provide the possibility for resident influence on development, as the future dweller or groups of dwellers could join together and operate as developer, and thus be able to satisfy their own, long-term interests and wishes as dwellers. One of the major flaws of the present system is that it produces dwellings for average people with average needs, not for actually existing and specific demands.

Last, but not least, small-scale ownership is by many social scientists and philosophers considered to be the root of democracy and a prerequisite for a functioning representative democracy. People attached to the society by ownership (other than stock exchange shares) are likely to be able to understand and formulate their specific interests in a political process.

Conclusion

Planning is far more than an instrumental activity practiced by professionals and solely dependent upon professional skills and technical assistance. The actual operation of the planning apparatus is dependent on the wider context of land policy and political culture. On the other hand, any planning system in operation must provide for the context of actual development and sets the limits for the various actors involved. Therefore, planners need to train themselves to see the wider context and implications of their work, not only to enhance their professional skills. As history shows, civil servants are also supposed to take responsibility for the development of the society they profess to serve.

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**RIGA, AN EXAMPLE OF
MUNICIPAL PLANNING
IN LATVIA**

The Riga Official Plan 1995 – 2005 and Problems of Implementation

by Sandra Treija¹

Introduction

Riga was one of the first post-socialist cities where a modern official city plan was prepared and adopted. The prospect of drawing up a new development plan, new both spiritually and physically, fascinated specialists and politicians. The Riga Official Plan has been prepared in a time of unique and drastic changes, when the population of the city is decreasing, the city's economic base, ownership and legislation are changing, and a more suitable city government structure is being examined.

Because of the lack of national and regional plans, and thus of a social and economic development plan for the city of Riga, and also because of the scarcity of statistical information, it was not possible to do all necessary background research. In such a situation it is difficult to predict future land use requirements.

The Riga Official Plan 1995 – 2005

Background of the Plan

Restoration of the statehood of Latvia, crucial political and economical changes in the transition to the free market democracy and the advent of private land ownership required new planning strategies. One of the primary commitments of the Riga City Council, which it started implementing as early as the summer of 1991, was the definition of basic urban development strategies for the city of Riga. A range of foreign experts with American, Canadian, Australian and German background and experience contributed to the development of these strategies along with the specialists from Latvia.

A general analysis of the social and economical basis, demographic and ecological situation, planning, engineering background and traffic conditions served as the foundation of these strategies, in order to provide for conservation and development of the historical heritage of Riga and maintain harmony between the architectonic, spatial and natural environment in the interest of sound urban development.

During the last fifty years the chief task of city planning in Riga was to foster economic development, paying little attention to human and environmental needs. Although in the ideology of socialism and especially in the soviet political writings of recent years, the human role and its importance were recognised, in practice, however, polluted industrial territories, a degraded city environment, including socially and physically low quality high-rise apartments were the results.

The Riga Urban Development Strategy for the period til 2020 was adopted by the Deputy Council of Riga City in December 1991 to provide for the sound future development of Riga. Preparation of a new Riga Official Plan was launched in 1993, based on the same urban development strategy and the Riga General Plan adopted in 1969 with the related documents: reports on implementation, the project of the General Plan developed in 1984, and data from

¹ Riga City Council, City Development Department, Planning Office.

related research. The Riga Official Plan was adopted by a decision of the Riga City Council in December 1995, and extended to the year 2001 in 1997.

Basic principles and values

The Riga Official Plan contains the policies of the City Council for the further development of the city. These policies are based on the principle of sustainable development – development that balances environmental, economic and social aspects in the physical development of the city. The basic task of the Official Plan is to determine the city's land use and zoning regulations. The plan has been developed according to the procedures and requirements prescribed in the Republic of Latvia Territorial Planning Regulation.

In many aspects this Plan has to be considered as a short-term policy of the Council, which has been approved to aid the continuous development of the city within the defined guidelines. At the same time several city development issues in this Plan have been tackled with a longer future perspective in view. One such issue is preservation of the city's cultural-historical heritage. Another is the policy concerning city highways, arterial road networks and bridge routes. The location and scale of these important city elements has not yet been precisely established, but it is clear that they will be required for city development. Therefore, there have been several blank areas left in the territorial zoning for which land use has not yet been determined. This refers mainly to the undefined solutions of transportation in the city. Zoning for these blank areas will be defined after detailed research and it will be done under the legally prescribed procedure involving the landowners, as well as those interested in these lands.

In the development of the Official Plan the basic principle is that the most important task of the Plan is to create the best possible living and working conditions for people, while protecting the environment and cultural-historical heritage. Riga has to become a city which is convenient and pleasant for people to live in, with a healthy environment and a healthy economy to satisfy the various needs of today's and tomorrow's residents.

City development goals

To guide the city's development successfully, Riga City Council has pinpointed 12 principal goals for city development:

- 1. to establish and ensure Riga's potential role in the Baltic Sea basin and in the community of Baltic States, in addition to being the capital of Latvia and the centre of the surrounding region;*
- 2. to create an urban environment which will foster a healthy demographic development;*
- 3. to create a high quality urban environment;*
- 4. in future development, to give special priority to nature preservation and the recovery and improvement of degraded environment;*
- 5. to preserve Riga's cultural-historical heritage and, in further development, to give special priority to its protection, renewal and development;*
- 6. to aid the economic development of Riga, strengthen its commercial independence and raise the prosperity of the residents without depleting the city's natural resources or eroding its cultural-historical heritage;*
- 7. to provide a choice of lifestyles for residents at various social and economic levels in a healthy and safe environment;*

8. *to promote the growth of a social services network offering choices and catering to differing needs of the residents for education, culture, recreation, health and welfare;*
9. *to form a stable city structure which would open new development opportunities respecting nature and cultural-historical aspects of Riga;*
10. *to create a safe, environmentally friendly and convenient transportation system fulfilling the needs of residents and ensuring the development of the city on a local and international level;*
11. *to improve and modernise city engineering infrastructure in order to provide residents and industries with water, electricity, sewerage and communications;*
12. *to ensure that there is sufficient land zoned for the expected functions in the appropriate location.*

Main issues dealt with in the Riga Official Plan

The policy of the city is described in following chapters:

- International and local links of Riga
- Population
- Environmental quality
- Nature conservation
- Cultural – historical conservation
- Economic development
- Housing
- Social services
- City structure
- Transportation
- City engineering infrastructures
- Land-use zoning

Land-use zoning is one of the most significant parts of the Official Plan, which defines the city territory's organisation, its uses, and the size of the zones.

Over the centuries of its development Riga has, to a certain point, experienced land-use planning which has been appropriate for each period in history, but has frequently also verged on the chaotic. A more systematic organisation of Riga's territory began in the early 20th century. During the years of Soviet occupation the authorities cancelled land ownership rights and general development plans made wasteful use of land, especially in industrial areas, arterial road construction and the unreasonable expansion of Riga's borders. This is demonstrated by the fact that the total area of Riga increased 1.5 times since 1940.

The area of Riga now is 30,717 hectares. Average population density is 25.7 persons per hectare, although density varies considerably between areas. For example, in the city centre there are 180 permanent residents per hectare, but in Kurzeme district only 14 per hectare.

Based on its function, all city territory is divided into 11 different land use zones:

- low-rise residential,
- multi-story residential,
- mixed residential and commercial,
- business and commercial,
- public and institutional,
- mixed manufacturing,
- industrial,
- port zones,
- technical service zones (transportation, power lines, etc.),

- nature and green areas,
- highways, arterial roads, streets.

Besides these zones there are areas:

- for “future research and land use” in which, for lack of information, land use has not been established yet. Such areas cover 1304 hectares;
- which are water territories, 5400 hectares or 18% of total area. Parts of this zone will be researched in more distant future;

Riga’s Land Use

Territorial zoning	Hectares	%
Low-rise residential	2866	9.3
Multi-story residential	1680	5.4
Mixed residential and commercial	972	3.2
Business and commercial	856	2.8
Public institutions	1215	4.0
Mixed manufacturing	557	1.8
Industrial zone	1022	3.4
The Port zone	511	1.7
Technical service zones	1332	4.3
Nature and green areas	11252	36.6
Future research and land use	1304	4.2
Highways, arterial roads, and streets	1750	5.7
Water areas	5400	17.6
Total area of city	30717	100
including - land	25317	82.4
- water	5400	17.6

Building regulation guidelines.

The City Council approves Riga’s land-use and building guidelines according to the future land-use plan. In the years to come, all projects submitted to City Council and decisions involving territory of Riga will be reviewed according to the building guidelines, Official Plan policy and building regulations.

In the guidelines, the parameters for building site development are described as “building intensity” and “open space”. In special protection zones these two indicators are not used, but instead specific building regulations have been established for these zones.

The Trends of Riga Development

Economic development

To attract new business, to develop the economy and to ensure sustainable development in the future, a set of conditions must be fulfilled. The first and most important is macroeconomic stability in the country or region. Macroeconomic development in Latvia in recent years has been full of promise.

Selected macroeconomic indicators in Latvia

Indicator	1995	1996	1997	1998
Real GDP (% change)	-0.8	2.8	5.9	4.8
Private consumption	-0.6	2.2	4.9	4.5
Public consumption	7.7	1.8	2.7	3.4
Gross fixed investment (% change)	8.7	18.1	15.0	10.2
Real industr. gross output (% change)	-3.9	3.0	6.1	3.9
Inflation (%)	25.0	17.6	14.6	6.4
Unemployment (%)	6.6	7.2	6.7	7.2
External debt (as % of GDP)	9.2	8.2	6.8	6.6
Construction index at fixed prices (%)	-9.4	5.3	6.4	10.1

(Source: Central Statistical Bureau of Latvia)

It is not only macroeconomic indicators that are important; it is equally important to examine processes underway in Riga which characterise the city as an important market and an economically dynamic centre. The focus here will be on those that simultaneously depict processes in the city's economy and emphasise Riga as a strategic location between East and West. Riga's advantageous position in respect to market opportunities is determined by its geographical location at the cross-roads of commodities and capital flows. Accessibility to Eastern and Western markets is provided by rapidly developing transport and telecommunications infrastructure. The activity of Riga Harbour and Riga International Airport has been increasing year by year. This is particularly significant, as ports and other transportation facilities have traditionally been core sectors of the city's diverse economic base.

Car ownership in Riga has increased considerably since 1990. Although this process has caused problems such as frequent traffic congestion in central Riga or lack of parking spaces, the growth in car ownership also directly reflects growth in private consumption or, in other words, increasing living standards.

Car ownership in Riga

Years	Cars/1000 inhabitants
1994	109
1995	143
1996	164
1997	179
1998	188

(Source: Central Statistical Bureau of Latvia)

Similarly, the amount of new construction and renovation of existing buildings is frequently seen an indicator of both economic activity and overall economic environment. Data obtained from the City Development Department of Riga City Council show that the number of development projects approved by the interdepartmental committee of Riga City Council has been growing steadily since 1993.

**Number of development projects submitted for
the approval of the Interdepartmental Committee of Riga City Council**

Years	Number of projects
1993	600
1994	800
1995	1600
1996	3100
1997	3280
1998	3415

(Source: Central Statistical Bureau of Latvia)

Major planning projects

- *Major city core development + study.*
The Riga Historical Centre was listed on UNESCO's World Heritage List in 1997. To preserve the historical value of the area, the development concept and detailed plan should provide mechanisms to control rapid development, determination of housing function, parking policy and building regulation guidelines.
- *Latvian-Canadian housing sector co-operation.*
This project aims at the establishment of a more efficient market-based provision of housing in Riga. The University of Calgary with its network of housing professionals will assist the City of Riga in developing a housing policy. Over the course of six months it will provide training and policy advice to strengthen the institutional capacity of municipal government and to improve its ability to plan, finance and manage housing.
- *Green space development plan.*
To achieve the goals of the Official Plan, importance is placed on green spaces, their elements and fabric. Parts of the green spaces include specially protected territories. Riga's green spaces are formed by six different but interconnected natural elements. In the development plan of green space specialists will point out areas with different characteristics and prepare guidelines for use.

Problems of Riga Official Plan implementation

Generally speaking, there is one problem – the ineffectiveness of Official Plan in application. Among the reasons for this are:

- discrepancies in legislation,
- lack of resources, and
- no co-ordinated decision-making process.

Discrepancies in legislation

The aim of the land reform is reformulate the legal, economic and social relations concerning land ownership and use by gradually denationalising and privatising state property, and returning illegally appropriated land.

Urban land reform, one of the most complicated processes of the transition to the market economy, has already been under implementation for eight years. The Law on Urban Land Reform in the Republic of Latvia, adopted in 1991, serves as the legal background for the goals and implementation procedures of the reform. It provided for former landowners and their heirs to reclaim their ownership as of 21 July 1940, disregarding the buildings and constructions erected during the subsequent fifty years. As a result, buildings may sometimes be located on several different properties.

Adoption of the law should have included a declaration of prioritised territories and objects under municipal and state control. This was not done, however, and a large number of properties reverted to private ownership, including even airports, port facilities, developing traffic routes, etc.

The land reform legislation is a key instrument in the implementation of urban development policy. Its results will serve as the basis for urban development. A professionally implemented land reform policy will provide for the urban structure, i.e. for the optimum size of land parcels and density of use. Also, the value of land and the real estate tax income to the municipal budget will depend on it.

A range of conflicts between land reform and urban development have arisen. One of the most important is caused by the discrepancies in legislation covering land reform and territorial planning. The Regulations on Territorial Planning were only adopted in September 1994, without any harmonizing with the land reform rules. The cities would benefit if the territorial planning preceded the land reform, but the opposite has been the case in Latvia.

An essential problem in the Territorial Planning Regulations concerns the detailisation of city general plans. The prescribed procedures for preparation, discussing and adopting of detailed plans are too unwieldy. There are no differences between detailed plan procedures for a major portion of the city and a plan for a single parcel of land: in both cases, the plan has to be adopted by City Council in an open meeting, after a long procedure of preparation and discussion. The situation aids and abets incomprehension and disregard of planning.

Lack of resources

Lack of financing and proficient employees for both land reform and planning is a regrettable problem. As shown by the experience up to now, allocation of parcels as units for privatisation is impossible without the land organisation or the detailed plan. Thus, the preparation of the municipal property for privatisation requires extensive resources, which are usually unavailable.

This is clear from the responses channelled into the planning approval process. Some increase in staff and technological resources are absolutely necessary to deal with the increase in the number of applications being processed. In 1993 staff processed 600 applications, in 1998 they were 3,415. Not only is the same number of staff doing this, but this staff still does not even have access to proper computer facilities.

During this same period, 1993 to 1998, economic activity has also increased dramatically in Riga. There is clearly a direct link between increased economic activity and the increased number of building applications that are being processed by planning staff. More planning approvals result in more buildings being renovated or constructed, thus creating wealth and higher tax revenues for the government. If adequate resources are not dedicated to the task of development approval, Riga may risk jeopardising its economic vitality. Inadequate resources could lead to delays in approvals and oversights or errors.

In order to resolve the above-mentioned conflicts between land reform and urban planning, to provide for efficient use of the available finances, and promote urban development in compliance with the enforced Development Plan, a successful co-operation of the municipal authorities, Real Estate Division, Architectural Board, Heritage Department, and Environmental Department with the City Branch of LR State Land Service needs to be forged. There is no common computerised data base for these bodies in Riga.

The basis for actual implementation of Official Plan is detailed plans, still lacking for many areas where rapid development can be expected. Currently, the Riga City Council lacks the extensive intellectual and financial resources needed to design the detailed plans, so neces-

sary for implementation of the Riga Territorial Plan. The City of Riga should involve the private sector in this process, leaving for itself the role of supervisor, co-ordinator and expert.

No co-ordinated decision-making process

At the moment Riga City lacks a physical strategy for development. Each department has prepared its own strategy without co-ordination with each other.

State and municipal acts and by-laws have not kept pace with the rapidly evolving construction climate, are vague as to applicability and at times contradictory. Even the City Council is often uncertain as to which laws are applicable to proposed development, whether in the private or public sector – with each individual project often treated in a different manner. This issue is further complicated by “land ownership” uncertainties regarding the ownership of the lands for which the proposed construction is contemplated.

Development in Riga is occurring simultaneously in a number of different places. Therefore, priorities should be assessed carefully to design suitable detailed plans for the places where development is expected, avoiding the situation when planning covers one place while investments are targeted elsewhere.

Some final remarks

Latvian planning documents, such as the Territorial Planning Regulation, Riga Official Plan, etc., are contemporary documents, which have been prepared under the influence of countries with long-standing democratic traditions – Denmark, Sweden, Canada, etc. In their present stage of application these documents are problematic, not least because the environment and its society, traditions, development, etc. does not share the same background. There is a need for a stage of transition for both – the environment and documents.

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