

SPATIAL PLANNING SYSTEMS IN WESTERN EUROPE

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Spatial Planning Systems in Western Europe

An Overview

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Preface

A general trend in our modern society is a growing complexity. It is therefore logical that in most countries there has been a definite tendency to give weight to issues of adapting also the physical space to this complexity and to find methods to do this in an efficient way, giving satisfactory use of land and other natural resources. During the twentieth century we have seen a very active development of legal instruments for this purpose, aimed at steering spatial planning and plan implementation according to the objectives and policies chosen.

Another trend has been increased globalisation. With vivid communication and co-operation across the boundaries, we are getting more dependent of each other. It gives us also opportunities to learn more from each other and maybe adapt us to a certain degree to each other. Mutual information concerning all aspects of our international neighbourhood will in such a connection get a growing importance.

This book tries to present basic information of how different countries within the chosen area have tried to solve the problem of establishing suitable systems of steering spatial development by means of planning and implementation measures. For this purpose summary descriptions of the connected formal regulations in each country are given in an appendix while a comparative presentation and discussion forms the main text. Hopefully, this will give the interested reader an overview of the current systems in western Europe, how they have influenced each other but still in many parts differ from each other. Differences may however give impulses to learn and to improve own solutions.

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1. Background

1.1 The scope of the book

The subject of this book is existing (2004) formal systems in West European countries of planning of land for development and management. We will name it systems for spatial planning, sometimes physical planning, and in this way underline that we deal with systems which are mainly directed towards arranging the physical space in a suitable way and co-ordinating different activities within it. Obviously, economic, social, technical etc. planning will often have a considerable influence on the use of land. But more seldom this type of planning has as a main purpose to arrange the spatial dimension according to suitability and accepted principles. The heavyweight will be put on physical development, even if one must be well aware of the fact that many relations exist between social, economic and physical conditions and that comprehensive planning must take this into consideration. Another limitation is that we only very superficially can touch on sectorial planning of different kinds concerning farms, forests, infrastructure, water resources, etc. Mostly, these are in one way or another part of the comprehensive physical planning measures. But when their planning and implementation are done separately and by separate authorities, they follow laws and regulations of their own. To go into details concerning these systems would lead too far in this Overview. We will therefore just mention some implications of such planning but not go into detail concerning its formation into systems.

Another limitation is that it is mainly the formal and statutory system which we consider. It is clear that behind the formal facade different kinds of applications may exist in practice. In the following text we will sometimes make remarks concerning this. But a consequent treatment of the actual use and efficiency of spatial planning would require a deep familiarity with these conditions in each country, maybe also in different regions of the country. To achieve this - if it at all is possible - lies outside the scope of this study. But the instruments which are used to bring plans to a reality, to implement plans, will be brought up for consideration.

There are further limitations. We will not go into detail concerning private planning and implementation of development projects: how to improve the economy, how to manage real estate in an efficient way, etc. The focus is not on what the owner himself can do. The focus is on the activities of public authorities: state, region, local government and community, which goals may be established and in what way they are furthered by spatial planning and its implementation, by actions and control.

The selection of countries is made on a geographical basis, even if it may be discussed if the included countries Finland and Italy should be called West European in this sense. Iceland is not included depending on too limited basic material. 14 countries are thus selected: Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom.

Lastly, it is underlined that this is an overview with the main intention to bring forward a summarised information about the existing systems, to point on essential features and to make certain comparisons between the countries but not to make deeper analyses. For the purpose, a certain description of the system in each land is gathered

in Appendix 1, while the main text takes up more general characteristics concerning objectives, planning administration, planning structure, implementation, control as well as some more specific subjects, with comparisons and discussions and some final commentaries (Appendix 2 gives a short summary of the present system in Poland just to show how a country which for a long time has been formed by other political influences now has started on a road with many similarities with the West concerning spatial planning systems. Poland is however not included in the further discussion in the main text).

1.2. Land

Spatial planning is to a great deal concerned with 'land' in a broad sense. In the first place land is the physical appearance of the area in question. It is the soil and what lies beneath, and its characteristics, including water conditions. Land use is also an important component. Nowadays, most land has changed from the way it was originally. It may have been developed in arable land or cultivated forest. In urbanised areas, land may have been adapted to settlement, industrial, commercial or traffic purposes or may have been kept as recreational areas. When here we speak of land, it will be in terms of its present appearance including all the cultivation or development undertaken.

Secondly, we will also include what is growing on the land, like crops, trees, etc. Furthermore, the infrastructure is more or less fixed on the land. The same may also apply to existing buildings. It may be true that, in some countries, buildings are treated as separate properties not legally connected with the land on which they are built. In other countries, the law states that land and buildings shall be integrated within the same property, if the owner is the same. For our purpose we shall include all structures - even buildings - in the concept of 'land'.

Thirdly, not only the area itself with its structures, but also the entire environment is important. A piece of land that is situated close to a big city is certainly different from land that is situated far away in a sparsely populated region. So the spatial environment is also included in our concept.

Furthermore, what constitutes land, the use of land and the value of land is far more than can be seen by the naked eye. The legal and institutional background is also important. The rights to land, be it ownership or other interests, are vital. It is also significant how such rights are legally defined, whether they are more or less absolute or limited by specific conditions and rules. The land must be seen not as an isolated physical unit but as something integrated into the whole of the society with its rules, institutions and socio-economic characteristics. When we therefore here talk about spatial planning and land use planning, these things are included.

1.3. Rights to land

An essential element for spatial planning is the concept and the definition of rights to land. What is included in a certain right is as a rule expressed in the law as well as in deeds. The law defines the right in general terms, while deeds describe parties and give more detailed stipulations.

Few of these rights are absolute but are generally subject to limitations of different kinds. Even a strong right, like ownership, gives no freedom to treat the land only according to the wishes of the owner. Ownership is often described as a bundle of

specific rights defined by law - for example the right to cultivate, build, enjoy production, sell etc. However, if a legal definition is given at all, it is mostly of the passive type: the right to do anything with the land which is not forbidden or restricted by law or custom or which must be approved by authorities, with the addition that the action shall not be very harmful to neighbours, other citizens or the environment and not be restricted by other rights to the land in question. Other rights to the land may be easier to define: right-of-use of different kinds, mortgage rights, servitudes etc.

In physical planning connections, ownership rights are most important as they more or less decide who has the power to talk for the land and to a great deal be responsible for implementation of plans. Ownership is a basic right in all West European countries with the exception of the UK and Ireland which have systems of long-term use rights to land which mostly are strong and in practice come close to ownership. The exact content of ownership differs between the countries, since it depends on all differences in regulations of many kinds. In this connection, however, we seldom need to go deeper into these details.

What however may be of importance is how well these rights are defined with regard to holders and areas. One thing is that clear definitions give security to the holders and stimulate long-term investments and planning. Another thing is that if public authorities will be able to adapt their planning to existing rights, they must be able to inform themselves concerning them without too much difficulties. Official records which define ownership and other rights and also areas and boundaries for these rights, as well as other needed information concerning land, are essential also in planning connections. You can say that a good land information system is a basic factor for the development of efficient land planning systems.

Compared with most other parts of the world the West European countries have fairly reliable and well developed information systems as a basis of physical planning, both in the form of maps, land records, land values, statistics and other types of information. Already early, most of the countries developed some kind of property records as a basis of land taxes. From the beginning of the nineteenth century these were further developed by introducing of the so-called cadastre - official records giving parcel numbers, owners, areas in different land classes and taxed values of land units, and with the parcels defined on large-scale maps. It started in France and was successively introduced in most countries in Western Europe, however with a different degree of covering and up-dating. Parallel with the cadastre, land registers with statements concerning ownerships and other rights in land were established by the courts or by special registrars, also with different covering and security in different countries.

Today, countries like Germany and the Netherlands have complete and high-standard cadastrals and land registers. In these countries the State guarantees the information given in the land registers and there is no need to go back to earlier transfers or other documents to be certain of those rights which shall be inscribed in the registers. In the northern countries - with the exception of Norway - the situation is about the same. Existing land units are numbered and documented in maps and records - even if these are not named cadastre - and existing rights are with a high degree of security and public guarantee documented in land registers. Belgium and France also have essentially complete cadastrals and land registers, the last ones however not with the same degree of security and guarantee. In Portugal, Spain and Italy the same records exist but have a lower degree of covering and public guarantee. In the UK and Ireland a formal cadastre has never existed. Up to the twentieth century also land

registers were rudimentary. This has, however, nowadays improved and formal land registers with documentation of existing main rights are successively including more and more land units.

The earlier records for mainly tax and rights registration purposes thus have developed into systems for legal definition of property units and securing of different rights in these. Nowadays they have got a still wider and not least for spatial planning very interesting function. Some countries - especially Sweden and Germany - started during the 1970s to computerise their land records. It was then possible to integrate more technical records defining property units, including their designations, areas and boundaries described in coordinates and maps, with legal land registers showing rights in these units. On the basis of the fixed land units detailed registers could further be developed for buildings, tax values, purchase values, enterprises, people living on the unit and other types of information which could be linked to property units. Vital statistics could thus be exactly located in space.

The land units defined in computerised records can thus be a basis of important parts of a more general geographical information system, including also other socio-economic, environmental and geographical information, which in turn may be of great importance for spatial planning. In the countries which were early in this development, this system building has already gone far and it is nowadays more or less existing in all West European countries. By digitalising cadastral and other maps the possibilities to locate and illustrate information have increased considerably. We are probably only in the beginning of the use of all this information in planning connections.

Still, the main advantage of complete and reliable land records is that they define and give security to legal rights in land. Security of ownership, etc. is a basic condition for proper management and long-time investment in land and in this way also for realistic strategic and detailed spatial planning.

After this background discussion we will turn to the different spatial planning and implementation systems with connected administrations and institutions in Western Europe. Before that, however, we will somewhat discuss the legitimacy and goal setting of public spatial planning, with especial reference to the countries in question.

2. Motives and Goals

2.1 Motives of public planning and control

The design of a system for planning, implementation and control is much dependent on the general attitude in the society to public involvement and steering. If we just take three examples like the USA, France and Russia before 1990 we can see how also the physical planning systems differ according to the general policy. In the USA with its ideological stress on individual freedom public spatial planning seldom goes very deep. Also for developing areas it is often limited to a more general zoning, stating the allowed amount of building lots per area unit and maybe some regulations concerning type of use and buildings. The rest is more or less left to the owner/developer. In France with its tradition of central administration the public planning normally goes deeper into details. But still the planning system gives plenty of room for private development initiatives and for public-private participation. In the earlier Russia, finally, it was always the public that decided land use and development.

Historically, the view concerning public interfering has also in Western Europe varied between countries and with time. In the strong national states which developed during the nineteenth century it was almost self-evident that the State exercised direction and control concerning land use. There were traditions from previous centuries when, because of considerations like taxes, the State interfered in ownership structures, the management of farms and forests and in the establishment of new market centres. Everywhere, land was the main source of production and income. The land market was also fairly underdeveloped, which increased the need for public influence and direction. Successively, the means for taking such actions were improved by an increasingly strengthened bureaucracy; the servants of the State who implemented official policy.

In Western Europe the interest in land use and development planning under public control grew during the first half of the twentieth century, especially in urban areas. Demands for public action to be taken on design, reconstruction, management and regulations increased, with support from various sources. In the beginning, the interest was directed towards improvement of street and building lay-out as well as better sanitary systems. But gradually, the need for more green places, architectural concerns, social improvements, etc. was emphasized. The idea of 'garden cities' and the aesthetic approach of the 'city beautiful' movement blended with approaches like those of the city as a technical or socio-economic system. Not least, social considerations spoke for public intervention. The idea of the welfare state legitimised public direction and control to protect the interests of the weaker groups in society, also with regard to settlement and land use.

These tendencies grew still stronger after the end of the second world war. The need to rebuild destroyed cities and reorganize the society was great. More radical solutions were sought. The labour government in England implemented a package of new laws and practices dealing with land use planning, nationalization of development rights, new towns, suppression of an 'unearned increment' in land values, strengthened control of the localisation of new enterprises, support for depressed areas, etc., all which called for increased public control of land use and development. These measures

also exerted a great influence on the general debate in other European countries.

However, the idea of a strong state which supervised and planned social and rational development of society, including land use and settlement, was never wholly accepted. It was opposed for empirical as well as theoretical reasons. It was questionable whether, in general, public intervention was in reality undertaken in a systematic, planned and rational way and furthermore if it had any significant influence compared to the results reached mainly by market forces and, if so, if this influence as a whole led to substantial improvements. It was also argued by several writers that public activities and interventions were less the result of rational planning than the outcome of an economic and political struggle between strong parties, groups and organisations, public as well as private. The thoughts can be seen as protests against centralist planning, bureaucratic decisions-making and limitation of personal and economic freedom.

With regard to the permissible scope for public intervention, there is thus a considerable difference in outlook in time and between politicians, scholars, people in general and countries. There are many pros and cons. Market forces are extremely important as a mechanism to allocate resources in an economic way and to encourage private initiatives. Yet, there are also good reasons not to leave the field wide open. The market is seldom perfect. There is often a tendency to overreact, which makes the market vulnerable and may cause crises. Above all, the market pays little regard to economically weak groups and interests. What is best, seen from a private economy, is far from always best for a society as a whole. This is true also of land management. Further considerations have to be taken into account, such as the consequences for the environment, the balance of land for production and for recreation, the necessity to plan certain facilities such as services, communications, etc. in a greater perspective, the necessity to look at long-term needs instead of short-time business interests, etc. Not least, urban land use and environment must be based on a firm structure which needs overall planning.

Many writers have tried to express the advantages of public interventions into spatial planning, implementation and control. We can take the well-known scholar Faludi as an example. He summarises arguments concerning public interventions as externalities, lost opportunities, public goods and equity considerations. Externalities refer to the non-paid effects on surrounding land like pollution, disturbances, overshadowing, etc. caused by activities on some parcel of land. Lost opportunities refer to the fact that some developments do require public action so as to realise opportunities which would otherwise be missed. Public goods reflects the inability to charge for services which more or less all enjoy in common and which are less apt to be provided by the private market. Other market failures concern equity: monopoly on the land market, lack of information, social inimicality, etc., all of which may motivate public intervention. There is a matter for every country to decide which balance between free business and public direction seems to be the right one for the situation in question.

This decision will, of course, be of great importance to the determining of the objectives and methods of spatial planning and implementation. Also within relatively homogenous areas like Western Europe we find many dissimilarities in attitudes concerning the degree of public involvement in spatial planning, implementation and control. We have countries like the Netherlands where both planning and implementation of the physical structure mainly is a responsibility of the public, however in active consultation with institutions and citizens. We have also countries like the UK

where the public just constitutes a frame, within which the further development planning and implementation is a matter devolving on the landholder/developer, however under firm public control. And we also have countries like Italy, where the formal planning and implementation system is strongly directed by the public, but where in reality a wide sector is developed more or less parallelly and independently of this.

2.2 Goals

The goals of spatial planning and implementation can initially be formulated in broad terms. At the 1992 UN conference on environment and development 'sustainable development' was declared to be a primary goal. It expressed the necessity to adapt development in such a way that, in the long term perspective, poverty would be reduced and the threats against our environment would be removed. This goal also includes the necessity to save the existent natural resources of living creatures, land, water and air and, as far as possible, to re-circulate products after use. The action program of the conference (Agenda 21) specifies the different actions and more detailed goals which were considered relevant for this purpose.

Within this general framework some of the principal aims for land management and development may be formulated as:

- healthy and sanitary living conditions. As mentioned above, this was already early an important reason for public intervention. In urban connections it meant ordered systems of streets, water and sewage. In time the goal was widened to include green spaces, aesthetic buildings and other surroundings, i.e. things which improved living conditions and physical and mental health;
- economic use. The question of the most economic use of land is a planning problem, where areas are given different priority according to how well they are suited for a certain purpose. The goal includes not only a choice between different purposes but also the establishment of a suitable external and internal structure. So, for example, it is essential to choose such land use and such timing that infrastructure can be successively extended in the most economic way. This has often been a strong local concern. The goal can also be seen in a wider perspective: to use planning means to raise the economic standard of regions and local areas;
- meeting social needs. Economy is only one of humanity's aim. In a more general welfare perspective it is mandatory for a public body to strive to satisfy the needs of people, be they habitations, services of different kinds, transport facilities, recreational areas or improvement of the social structure by better income distribution, etc. To a great extent such welfare activities have connections to land and should be included in the aims of land policy and management. The principle of taking public action to secure land and housing for low-income people is stressed as a primary goal by all the involved governments:
- accessibility. Physical distance functions as a barrier to human interaction. By improved transport facilities these barriers will be moved further away and the

opportunities for interaction will increase. In general, a transport network will be of great importance for development. Land use planning and transport planning should be well coordinated on a national, regional and local level:

- protection of productivity. Land resources can be diminished by inappropriate planning and management. Cultivation in hilly areas, heavy exploitation of forests, valuable arable land used for urban development, etc. may cause erosion or lower production. Even if it entails economic sacrifices in a short-term perspective, it is in the public interest to strive for a land use which prevents deterioration of land;
- preservation of environment. This is a goal which was for a long time accorded rather low priority, especially when it came into conflict with economic interests. In recent decades the situation has changed in all the countries concerned. Environmental consequences are now a major concern in development, at least in principle.
- preservation of cultural heritage. In a rural area, it can be important to withhold an open landscape from forestation or retain hedges, stone walls, natural pastures and other witnesses of former landscape and cultivation. In an urban area it may be of great value to keep not only single ancient or typical houses but also living quarters of cultural interest.
- public-private participation. The activities should be well integrated in other public plans and measures with good contacts vertically between authorities at different levels as well as horizontally to authorities representing other interested sectors in the society. They should also be planned and implemented in dialogue and participation with concerned land owners and other citizens.

These common goal specifications will get partly different meanings and importance depending on if it is a rural or urban area. Expressed in general terms they may be similar but their content and weight are normally different. Important objectives in rural areas may thus be establishment of good traffic and basic service conditions as well as development of more small and medium but efficient private enterprises, not least within agriculture and forestry but also within handicraft, small industry and service. Also settlement of people working outside the local area may be stimulated. At the same time a goal should be to preserve as much as possible a culturally valuable surrounding in spite of the economic development.

In an urban connection important goals may be developing of a hierarchy of urban centres which is suitable from viewpoints of service and labour market, formulation of effective and functional urban inner structures which provide good solutions for living, working, commercial and traffic activities, good external connections, desired social development and all this with a preserved cultural heritage and a pleasant urban environment. Important to the urban living is also access to green town areas as well as outside areas for recreation.

Formulated in such broad terms, goals are common to all the West European countries. But if we go deeper there are differences concerning the weight laid on different goals, the right balance between them as well as the more detailed formulation

of them. This is not least proved when there is a conflict between goal and economy and between different goals.

We will just take some examples. It is thus quite obvious that the goal to establish a healthy surrounding has been more stressed and earlier handled in the Nordic countries, Germany, the Netherlands and the UK than in the southern countries. More and earlier, money has been provided for slum clearance, street improvements, establishment of common water and cleaner sewage systems and so on. Partly it has been a matter of local resources, but also different preferences seem to have influenced. The same might be said about the weight laid on the providing of green areas, recreation opportunities and similar public arrangements for a more pleasant surrounding and a vital leisure time.

There are also many differences concerning the weight given to economic development in the objectives behind spatial planning. This is especially evident in regional planning, while at local level it depends more on the actual situation. In Ireland for example regional economic development has been a main objective during the last decade, where regional planning to a high degree has been coordinated with the regional support program of the EU. The result has also in many cases been a substantial increase in the economic level of previously poor areas. In France, Belgium and Luxembourg the economic elements have also been a main consideration in regional planning, included in the concept of '*aménagement du territoire*'. Special efforts have been made to improve the conditions and economic level of mountainous or otherwise low income areas. In this connection contracts have often been drawn up between the State and the local authorities specifying the economic support and conditions for this. In some countries like France, Spain and the UK areas in special need of support can be delimited and have partly been given an adapted legislation to stimulate development. Separate agencies have also been established, as for example *Landesentwicklungsgesellschaft* in Germany. Economic aspects have likewise been a main consideration in regional planning of the eastern parts of Germany after the reunification. Also the support by the EU has played an essential role in several countries for the inclusion of major economic elements in regional planning. In other countries, like Sweden, the objective to raise less developed regions to an equal standard has played a subordinated role in formal spatial planning. It may well be that it is discussed and that considerable means have been allocated for support to economic development. But it has mainly been after application and examination in individual cases, not as an objective of active regional planning. Important measures have however been taken at national level by decentralisation of many State boards and agencies to provincial cities. In most of the countries also the local authorities try to attract industries and other enterprises, partly by reserving suitable land for them in local plans.

Also considerations of social needs play a different role in the spatial planning systems. Thus, in several countries, 'social housing' will cause special treatment and sometimes be implemented by special instruments. In Italy for example an instrument *Piano per l'Edilizia Economica e Popolare* including previous expropriation, etc. may be used when the objective is to implement social housing policies. And while in England the detailed planning and further implementation is as a rule left to the private sector, this role may be left to the community when social housing is concerned.

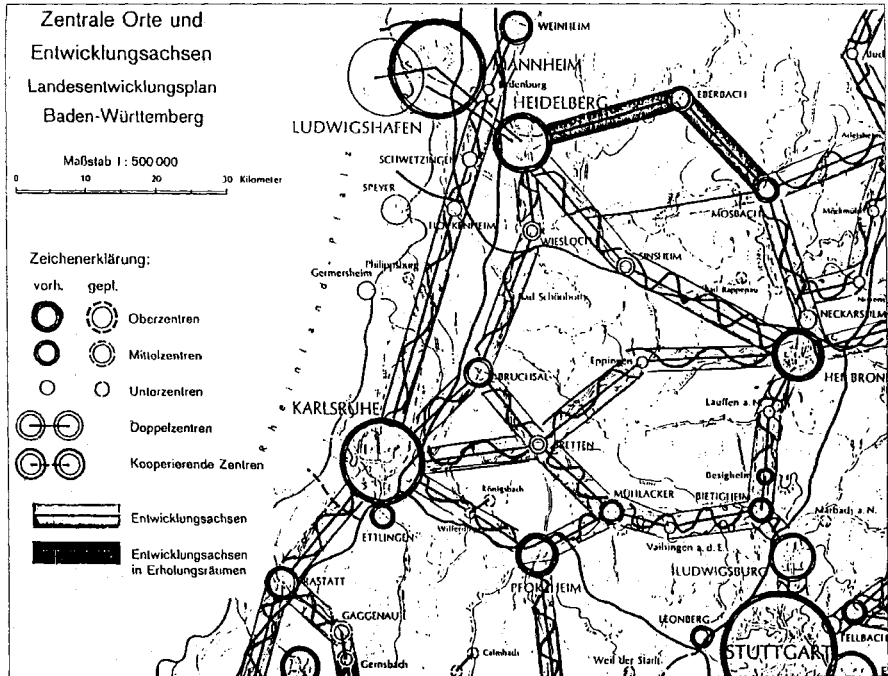


Figure 1. System of central places and development axes (Landesentwicklungsplan for Baden-Wuerttemberg).

In other countries like Sweden and the Netherlands the community is essentially responsible for all types of physical planning without any separate formal treatment depending on the existence of social objectives. One reason for the community to lead the development has there been to prevent as much as possible high speculative land prices for housing. Another has been an objective to limit urban sprawl and instead build out new urban areas systematically with good connection to existing infrastructure and in this way get lower urbanisation costs. This has naturally been an objective also in the other countries, even if the active public engagement has been less. A common trend in later years has therefore been to restrict building of new suburbs and instead try to use the existing urban areas better - partly by reclaiming of derelict/vacant urban land from old industries etc. - and in this way also spare agriculture or recreational areas around the cities. At the same time it must be stressed that even in Sweden and the Netherlands a common trend is to diminish the public activity in development and rely more on the private market. This has since long been the case in several other countries like the UK, France and Spain.

There may also be different views and objectives between the countries concerning location of new development including new service institutions. Especially in Germany but also in countries like the Netherlands there seems to be more outspoken goals to develop hierarchical systems of urban centres with rather strict localisation of different types of services according to the rank of the centre in the wider system - something in agreement with the theoretical models of Christaller, Lösch and others. In the

Landesentwicklungsplan or *Landesentwicklungsprogramm* which every German *Land* must establish it is thus an important element to show the system of central places as a hierarchical model for the supplying of the population with public and private services and employment, comprising higher order, middle order and lower order centres in their basic form (figure 1). Of course, it is also a goal in other countries to place service institutions with a need of a different degree of population support according to the most suitable hinterlands. But in Germany etc., the need of a more active system-building in this connection seems to be more outspoken in development policy.

There may also be other differences concerning localisation objectives. In countries like Finland, Norway and Sweden it is quite acceptable to place new single or small-group dwellings in a rural area, provided that they have good connection with transport facilities, do not cause new outlets to larger public roads or otherwise have a disturbing influence on the surroundings. Such settlement may even be seen as a welcomed strengthening of the countryside. In several other countries like Germany, Italy, etc. new spread settlement is very restricted and almost forbidden if not special conditions exist. In Belgium it seems in fact to have been a problem that such settlement has not been possible to stop to a desired extent.

If, however, a new settlement in the countryside is connected to existent larger villages or other groups it will normally be accepted and maybe supported in all countries, provided that it is well adapted to the ready-built environment. This adaptation may however often be a problem. Not least in England there has been much discussion as to what degree it is possible to condense traditional farm villages with new settlements for outside people or if it would not be better in most cases to place them in a separate group in the close neighbourhood. In Germany it has been an important aspect of 'Dorferneuerung' to find suitable locations for such additional buildings.

On a larger scale we find a similar problem in the Mediterranean countries. After the last world war, tourism expanded and hotels, bungalows and other facilities grew up rapidly, often at small urban centres. To mix new and earlier settlement in such cases would have totally changed the character of existing communities. So the solution, especially in Spain, has as a rule been to build facilities for tourism separated from, but close to, the earlier small town. In France, on the other hand, it has often been possible to integrate old and new buildings as the tourism development has as a rule come more slowly and the urban centres often have been bigger. But even there, separate agglomerations have been built up in some cases, as for example Grand-Motte, at the southern coast. A main objective in such situations must be to develop the tourism industry in such a way that it does not disturb the earlier values of built-up areas or surrounding nature.

In most countries there exist trends that certain groups of people want to leave urban surroundings and move out into the countryside with a closer connection to nature and also cheaper building sites. This is an example of how different objectives may be opposed to each other and should be balanced in some way. On one side it is advantageous that people who like it can settle in a natural milieu and at the same time strengthen the population base for basic service in the countryside. On the other side this will normally cause increased individual auto traffic from dwellings to places of work, with increased energy consumption and air pollution. Partly, this can be counteracted by developed public traffic facilities. It is however easier to establish a functioning commuting area from a network of urban centres knitted together by local trains than to get people living in the countryside to use bus service instead of private cars.

This is what often happens i.e. that different objectives in a certain situation are opposed to each other and have to be balanced. We can take another example: location of big supermarkets. On one hand they may increase competition, be more efficient and decrease consumer prices. On the other hand they ask for big and low-price sites which mostly are found outside the urban centres. Such establishment, however, may cause shops and other commercial enterprises in the inner town to gradually diminish, the town milieu to become destitute and the difficulties for older or car-lacking people to find good service in the neighbourhood to increase. To handle this problem policy guidelines and legal instruments have been established in countries like Denmark, Germany, Belgium, Italy and the UK. Several countries - like Germany - have turned rather restrictive to new locations of outside supermarkets and instead tried to solve the problem by inner-city gallerias or other establishments. Other countries, like Sweden and Finland, have this problem under consideration without any commonly accepted policy so far.

This supermarket problem is in one way an aspect of the earlier trend in town planning to separate different functions from each other, most clearly expressed in the establishment of new dwelling areas in more or less homogeneous blocks outside the inner city, with few working-places and only primary service. Nowadays this has been criticised as increasing the time for daily travelling to work, making dwelling places sterile and counteracting a more vivid town milieu. Instead, there is an objective in most western countries to mix dwellings, smaller working-places and commercial activities to a certain degree and as far as space and environmental conditions allow, and in this way reshape a more vital and varied town environment. There may for example be possibilities to transform old central industrial areas into dwelling and service areas. This is an illustration of how some planning objectives may change with time.

However, the most notable changes in planning objectives and the balance between them may well be connected with the increased consideration of heritage and environment. During later years they have as emphasised above got quite another weight than earlier in all the western countries. The real proof in practice, however, concerns which considerations are taken when there is a clear conflict between these things and economy in a narrow sense. Planning-goals seldom are straightforward but must normally be pulled against each other and balanced in a suitable way.

Above, a few examples have been given as to how planning objectives, despite being shared by everybody when expressed in general terms, may differ somewhat between countries and regions when they get more specified and how they also may change by time. If we go further and try to express goals and objectives of the relevant countries when planning specific sectors as farming, industry, infrastructure, etc. we will find lots of other differences. Some will be touched on in the following chapters. However, to go more deeply into the different and often changing policies of the countries in question would lead us too far and be beyond the scope of this presentation.

Before we pass on to an overview of existing spatial planning systems in West European countries we will give a summarised presentation of the institutional background.

3. Administrative and Legal Development

3.1 Administrative development

Up to the twentieth century, a strong central steering was a natural way of administration in most countries of Europe. Even with increased democratic influence, the degree of central steering was high. Different means were used. A main mean was naturally legislation and central directives which gave the frame for development at lower levels. The executive power within different sectors was concentrated to ministries, for example a Ministry of Planning. Within or under a ministry there were as a rule special advising, investigation and controlling institutions established, supporting the minister in his decisions. Sometimes they had a rather independent position, like in Sweden, where according to the constitution the ministry is not allowed to influence the decisions of such central institutions in individual cases.

However, it was of course impossible for a ministry to take position, control and decide concerning all detailed matters. Successively, the central influence was concentrated to legislation and directions of a more fundamental nature, whereas the means for action at a more local and detailed level were improved by an increasingly strengthened bureaucracy. As emphasised by the German sociologist M. Weber in the beginning of the twentieth century, the natural organisation of a capitalist society was in his opinion a strong, autonomous and formally rational state, where a more or less neutral bureaucracy provided the accepted policy and checked its observance.

Normally, still, some power was left to the local community. In the urban areas some kind of council and/or board, headed by a chairman or mayor, could deal with many of the matters of detail that were important at this local level. As a rule they also had power to establish local order and sanitary regulations. In the countryside there existed less of statutory local administration. However, rather strong village organisations were a rule. They could deal with the management of the common land as well as organise the scheme of crops, harvest and pasture and further regulate other matters of importance for the daily life in the villages. Generally, there also existed some kind of parish and/or municipal organisation with responsibility for common interests of a wider local spread. Authorities commissioned to deal with small although for the local population important matters, often characterised by much participation from the established property owners, have thus existed since old times.

At the *regional* level, a certain autonomy existed in a federal state like Germany, even if it was weakened during the period 1933-45. But in the other countries it was not strong. Some regional or provincial division of a state existed by tradition or was established fairly early. To this was knitted some kind of organisations with responsibilities assigned by the central government. But normally they worked only as representatives for the central government. With increased complexity of the societies many things and decisions were left to them as long as the government accepted it. But as they worked under the hegemony of the central government their decisions could be altered whenever it was found appropriate. These organisations were originally often

knitted to tax gathering, military purposes and general control of the population, but with increased complexity of the society many other things were gradually left to their handling. Still, they were in main the 'extended arms' of the state.

Especially during the twentieth century, however, there has been a marked development towards a general *decentralisation* in Western Europe, even if this development has been more or less late and more or less profound in the various countries and even if in some countries it has been stopped for some time depending on the political situation. It has assumed different forms. The regional and provincial level units may thus have been strengthened by

- 1 transmitting earlier central functions and decision powers to existing regional authorities;
- 2 establishing new regional divisions and authorities with responsibilities for certain functions;
- 3 reduction of statutory checking of regional decisions by the central government

The first way has been used by most of the countries in Western Europe. In some countries it has gone far. Belgium thus took a radical step in the 1980s, when a great amount of independency for the Flemish, Walloon and Brussels regions was decided. Physical planning and connected power of legislation and directives were thus completely transferred to regional and local level. Germany as a federal state had before 1933 great regional decision power of old, but after World War II it was further developed. Also in Spain the regional and provincial autonomy has been decisively strengthened from the 1980s and on. Some other countries have a specific autonomy for certain parts, for example Madeira and the Azores in Portugal, Wales, Scotland and Northern Ireland in the UK, Åland in Finland and Corsica in France. In all these countries existing regional authorities have been awarded a stronger role to co-ordinate different sectoral plannings, even if the regional structure in the UK and Ireland is still rather weak. Mostly, the regions and sub-regions have also been given stronger influence in planning matters as well as increased power to issue decrees and directions within the framework of national regulations.

Side by side with the State representatives there has in several countries been established elected regional councils with power to nominate regional executive boards or governments. In Denmark and Norway for example such elected councils at a county level have the main responsibility for regional planning as well as for many other regional matters. In Sweden the elected county council is responsible for main parts of hospitals and other health care as well as for much of the county transport organisation, while the State representatives are entrusted with the administration of most other tasks of regional interest. In countries like Germany, Belgium and Spain the transferring of power from the national to the regional level has as said gone very far - not least concerning spatial planning and connected legislation. In other countries such as Italy, Ireland, the UK and Luxembourg the power of the existing regions has been strengthened with regard to planning, but the national influence is still rather strong.

After World War II new regional divisions have also been established, partly for planning purposes. This second way of decentralisation has especially been used by France and the UK. In France, regional divisions were strengthened and new ones established in connection with the extensive decentralisation of the earlier centralised

state which took place in the 1980s. Not least was this reform motivated from a planning viewpoint, as a means of *'aménagement du territoire'*, a combination of economic and physical development. A means to strengthen the regional influence was also increased co-operation between regions, formalised in such way that the existing 22 regions have got a superstructure of 7 larger regions. In the UK, the administration is still in many respects centralised, but regions have been established with responsibilities for different purposes. One type of region may thus be used for spatial planning matters while another type may deal with other things. Finland is another country which has established special districts for regional planning purposes. More specific is the creation of *'metropolitan'* regions in several countries, where the local authorities around the big cities together start a common regional planning work.

In connection with projects supported by EU funds many countries - for example Ireland - have engaged in development connected to regions of a more temporary and less statutory nature. Sometimes the projects and the support have coincided with existing regional boundaries but often they diverge. This is also natural as the projects in most cases have rather an economic than a strictly spatial dimension. Sometimes, however, lacking agreement between administrative regional divisions with their own planning instruments and project planning and delimitation has caused some problem. But as a whole the EU support has stimulated the regional concept.

The third way to strengthen regional influence is used by all the countries concerned. Earlier it was normal that a great many of the decisions taken on a regional level had to be approved by the central government. This was especially the case with regard to regional planning. More and more such regulations have weakened, either by making regional decisions final or by prescribing only a possibility for the higher level to act when so is needed because of national or other strong interests.

Generally it might be said that increased *'regionalism'* and strengthening of regional administration and planning have been a clear trend in Western Europe during the last decades. Obviously, there is a distinct need to develop intermediate and active links between the national strategic steering and the local more detailed planning and implementation, links which will strengthen the possibilities to co-ordinate policies and plans of different sectors in the society and to carry out the national policy in practice. Still, however, the regions have to work within the framework of national policy and planning, which in many ways seems to be more articulated with improvements of the national information and planning means. And in some countries like the UK, Ireland and Luxembourg the national government still has a strong influence on regional planning in particular.

Also at the *municipal* level we find similar means and trends toward decentralisation. In all the countries in Western Europe new functions have been turned over from state to municipal responsibilities, especially in the Nordic countries. Partly this has been possible by creating new administrative units. In Sweden for example earlier municipalities have been put together on a big scale and the number today is less than one tenth of the number in 1950. This has made it possible to increase the responsibilities of the municipalities at the same time as the direct interfering by the central and regional government has diminished. We can find a similar development in several other countries even if not so pronounced. France is an exception. Here, the old boundaries have mostly been kept and the division is still accommodated to the traditional local neighbourhood, which often makes the municipalities very small. But

on the other hand it is possible to create statutory units with own authorities of several municipalities to solve specified matters, such as nets of infrastructure or common planning issues. This possibility is made use of also in several other countries.

A much wider responsibility of the local authorities will, however, not be possible if not an economic foundation for it is established. In some countries like the Netherlands, Portugal and Italy the local authorities are heavily dependent on support from the national budget, which naturally sets a frame for their activities and gives a certain dependency of higher authorities. In other countries like the Nordic countries the main source is a municipal income tax, in several cases in fact higher than the corresponding state income tax. Other sources of municipal income may be the contributions by property owners to infrastructure, charges for building permits, services of different kinds, etc.

Based on solid income sources and appropriate population within the municipal boundaries the administrative, controlling and planning power of the municipalities or groups of municipalities can be considerable. Especially concerning local spatial planning the municipal level is nowadays the most important in all the West European countries. In several countries, like France, the UK, Italy, Portugal, etc. the local plans must still be formally approved by a higher authority. In other countries, like Sweden, a plan approved by the local authority must only be communicated to the next higher level, which may have the power to annul the plan according to limitation reasons given in the law but not the power to change it against the will of the local authority. In such cases you can talk about a municipal 'planning monopoly' even if it is seldom complete. To a certain degree, planning at a lower level must always take not only laws and decrees but also plans at a higher level into consideration. In one way you can say that development of hierarchical planning establishes a firmer frame for planning at lower levels, and therefore also opens greater possibilities to leave much of self-independent continued planning to these levels.

Still, the administrations of different sectors such as agriculture, forestry, infrastructure, economic and social development, environmental protection, etc. are in most countries more or less separated from each other and from physical planning organisations, even if they obviously often have an influence on each other. The different administrations work mostly rather independently from each other and co-ordination is a problem everywhere. Some of these sectors may be managed at the local level, and then their co-ordination be considered at that level. But often main decisions have to be taken at a higher level, for example concerning infrastructure and nature preservation of national and regional importance. Some countries have special administrative organisations already at the national level for such co-ordination, as interministerial committees in Ireland, France and Portugal. There have also been efforts to include sectors with much internal dependence, for example planning and environment, within the same ministry.

Much of the co-ordination is, however, supposed to be done at the regional level. One important reason for regional plans is to adapt development in different sectors to each other. You might say that the main advantage of such plans is that their establishments postulate a discussion between the sectors of importance for the economical, social and spatial structure of the region, all of which then have to be considered in the final plan. The trends, objectives and possible solutions concerning infrastructure, urbanisation, environmental protection, etc. have to be balanced against

each other, and the frame of development and land use adapted to this. Even without such plans it is normally an outspoken responsibility for the regional representatives of the State or the regional government to consider needed co-ordination. But in some countries, as for example Italy, it is obvious that so far it has been difficult to attain co-ordination in practice.

3.2 Legal development

The legal development concerning spatial planning has been much influenced by these trends toward decentralisation and more comprehensive attitudes to the problems to be solved. Most of the countries have gone a long way from an earlier dominant attitude that mainly 'blue-print' planning of delimited urban or development areas needed to be handled in law. Even with such a limited perspective, statutory regulations are, however, of a late date in most countries.

This does of course not mean that organised spatial planning did not take place earlier. From old times we know how new towns were founded by the central power, often of a very regulated design with straight streets and rectangular quarters. Rebuilding based on detailed planning was not uncommon either, especially after great catastrophes by fire, etc. Later on, renewed planning might be ordered to emphasise and improve not only good sanitary conditions and communications but the splendour of a city, like for example the Paris plan by Haussmann during Napoleon III, characterised by its broad boulevards cutting through the centre of the city. However, very few law regulations steered these enterprises. If such regulations existed they were mainly related to sanitary protection, building regulations etc. Often, towns had special decrees of their own, regulating building construction, fire protection, sanitary conditions etc. in addition to the more general regulations which might exist.

From the beginning of the twentieth century, special planning legislation started to develop in several countries. In some cases, e.g. Germany, Denmark, Sweden and the Netherlands, it was efficient and contained many of the elements which we can find in current law. In other countries, on the other hand, like for example Portugal, a modern law which also was commonly applied in practice is of a rather recent date. And even if, as in Italy, a specific law has existed since the 1930s it might thereafter not have been suitably updated and has because of this not been able to lead the development in a satisfactory way.

In general, however, the real base of the present legal situation concerning spatial planning has not been laid until after the second World War, whereupon there has as a rule been a rather vivid development which still continues. As mentioned above, a general trend has been *decentralisation* by not only locating the most important plan institutions at the local - mostly municipal - level but also by giving the local authorities greater decision power and diminishing the earlier obligatory final approval by higher authorities. A part of the decentralisation has also been to develop partly new and statutory forms of regional planning and in this way make it possible to move the central influence and decision power a step down to the regional level, even if in most countries regional plans still have to be approved by the central government to be binding on lower levels.

The early planning legislation was concentrated upon existing urban areas with their close surroundings and areas intended for a near urbanisation. The main thing was

to decide the land use of different parts of these areas and the areas needed for streets and other public uses. They were schemes for suitable building rights and other arrangements but were mostly unlimited in time and included little of stimulation for an early implementation. Since they often covered rather big areas, a considerable amount of time could elapse between the approval and their main implementation. In existing urban areas the intention of the plan was often to provide a pattern for a successive adaptation of streets and buildings. This meant, however, that the plan mostly became rather out of date before its implementation and could in certain cases become more of a hindrance than an aid to establish a suitable urban structure. To get a more complete picture of the desired urban development of a larger area, master plans were recommended. They had also a more strategic nature, did usually not bind the development in detail and could easier be revised. But not all municipalities could afford or were interested in master planning, and if such planning was undertaken, the plan was often not formally approved and served more as an aid to judge future development projects.

In practically all countries, the planning legislation during the time after World War II has left this state of, in one way, 'blue-print' planning and has been extended to include also different forms of *strategic* planning with an aim to cover the total area of the authority concerned. In some countries like France and Spain the law has thus included rules for a national plan, normally concentrated on main infrastructural nets and social and economic development of different regions. More common are statutory rules of regional planning, including the same but generally also giving a broad frame for existing and intended urban areas, preservation areas, more detailed infrastructure, etc. The nature of strategic planning is underlined by common rules that the time perspective of the plan should be 20-30 years but that the plan normally should be revised at certain intervals. .

Also at the local level - municipal or group of municipals - the perspective has changed and the plan legislation accommodated to this. All the countries concerned have now rules implying that each local authority ought to establish 'strategic' or structure plans, covering the total area of the authority, as well as more detailed plans for limited areas, aimed to be implemented rather soon. In the case of the UK only the first one is normally a responsibility of the public authority. In other countries like France the detailed planning is often done in participation between authorities and developers, while in countries like Sweden, Denmark, Norway, Germany and the Netherlands also the detailed planning is the responsibility of the municipality, even if the developer often delivers a first draft of the plan. Since the structure plan should cover the total area of the authority, boundaries between areas for agriculture-forestry and areas for existing or future urban development, preservation and infrastructural projects must be drawn. Co-ordination between different sectors will thus be needed, and the statutory rules must therefore include obligations to consult representatives of the sectors concerned. These comprehensive obligations have in most countries only been included in the legal framework during the last decades and are still not quite implemented in practice in many municipalities. This is especially the case in Ireland, Italy and Portugal.

Another obvious trend in the legal development has been the increased demand for *public participation* in planning. Concerning national and regional planning it is mostly a question of obligatory consultations with representatives of affected sectors, local

authorities and organisations, even if the plan proposals also usually are open to viewpoints and representations by individuals. At the local level, however, the current planning laws demand possibilities also for the individual citizens to consider, express their views and object to plan proposals. In countries like the UK and Ireland, the draft should as a rule not only be available in a public place for a prescribed period but also be discussed at a public hearing. Generally, opportunities are also left for appeals to higher authorities or to courts, sometimes - as in Denmark - only concerning legal faults but in many countries also if property or other interests are injured by the plan. In most countries there has been a vivid discussion during the last decades on how the public participation and commitment could be increased, partly by legal rules, partly by efforts taken by the planning authorities.

Another legal trend concerns the *right of development*. That a new or considerably changed building needed a building permit has long been the rule. But earlier it was commonly considered that the right of ownership also included a certain right to build on this property, maybe as sparsely settlement, but, if there was nothing to prevent this, also as a formally planned development. This view is still common in the USA and has also some support in countries like Finland and Portugal. But in most other West European countries it has been abandoned. The legal position has more and more gone in the direction that development rights do not accompany property ownership but need approval in formal plans, even if sometimes also sparsely settlements without planning support may be allowed. Several countries, like Germany, are however very restrictive to such. Also the legal restrictions on development of groups of buildings have been strengthened. It is certainly no longer any right to get approval for plans to build in this manner. Most Western countries nowadays consider it a power of the local authority to decide *if, where, when and how* a development may take place.

Especially after the 1980s *environment considerations* have been given a new and important role in the legal framework concerning spatial plans. In those countries where a main planning law exists they are to some extent included in this, as rules concerning environment impact assessment before approval of certain development projects, rules that environment considerations must be taken in the plans, rules concerning building and environment protection, etc. But to a greater part the statutory rules are found in separate laws concerning pollution, protection of preservation areas, seashores, heritage etc. In such cases the legal co-ordination of planning and environment objectives mostly is effected by claims on separate permits submitted by local authorities, nature protection authorities, heritage authorities and so on. This may naturally complicate the process for development projects.

A possibility to diminish such complications would be to gather the rules concerning planning, development, environment, etc. in as few laws and decrees as possible. It would also make the legislation more consistent. Much has already been done. In most countries the earlier legislation has been slightly ad hoc. Special laws and decrees were designed for different problems and purposes and each law often covered a relatively narrow sector. In later decades there have, however, been an obvious trend towards gathering such laws in more homogenous complexes. In Sweden for example, when a rather comprehensive Plan- and Building Law had been approved in 1987, which also unified the earlier different country and town planning instruments, a long committee work was started with the aim to join and adapt to each other all the main regulations concerning protection of environment, nature and heritage. The work

Table 1. The legal framework and main legislation (EU comp.)

BELGIQUE-BELGIE	1962 Spatial Planning Act (All) 1991 <i>Ordonnantie houdende Organisatie van de Planning en de Stedebouw/Ordonnance Organique de la Planification et de l'Urbanisme</i> (B) 1962 <i>Wet Houdende organisatie van de ruimtelijke ordening en Stedebouw</i> (1962 Spatial Planning Act) Frequently amended by further decrees. Currently under review (F) 1984 <i>Code Wallon de l'Aménagement du Territoire, de l'Urbanisme et du Patrimoine</i> (last edition 1994) (W)
DANMARK	1992 Planning Act
DEUTSCHLAND	1986 <i>Baugesetzbuch</i> (BauGB) (Federal Building Code) amended in 1990 by Reunification Treaty and in 1993 by the <i>BauGB Massnahmen Gesetz</i> (Supplement to Code)
ELLAS	1983 L.1337 Act on Extension of Town Plans and Urban Development Law L.1577/1985 General Building Regulation. Extremely complex planning legislation with many separate laws and regulations
ESPAÑA	1992 <i>Texto Refundido de la Ley sobre el Régimen de Suelo y la Ordenación Urbana</i> and several laws by Regional Governments or Autonomous Communities
FRANCE	1995 <i>Loi d'Orientation sur le Développement et l'Aménagement du Territoire</i> (Planning and Development Act) <i>Code de l'Urbanisme</i> (code of urban planning law)
IRELAND-ÉIRE	1983 Local Government (Planning and Development) Act as amended by subsequent Planning Acts together with 1994 Local Government (Planning and Development) Regulations
ITALIA	1942 Law No. 1150, 1967 Law No. 765, 1977 Law No. 10, Regional Laws
LUXEMBOURG	1937 <i>Loi sur l'aménagement des villes et agglomérations importantes</i> . 1974 Act on <i>Aménagement Général du Territoire</i> (General Planning Act) 1982 Act on Environment, 1993 Act on Nature Parks
NEDERLAND	1965 <i>Wet op de Ruimtelijke Ordening</i> (Spatial Planning Act) major amendments in 1985 and 1994
ÖSTERREICH	<i>Länder</i> spatial planning acts (mostly amended 1992-4)
PORTUGAL	Many different laws for sector of activity defining individual parts of the system frequently amended by further decrees. Main law for spatial planning is the <i>Lei dos Solas Decree Law</i> no 794/76. New framework law being discussed
SUOMI-FINLAND	1958 <i>Rakennuslaki</i> (Building Act) Latest revisions 1989, 1990, 1992, 1994 and 1996
SVERIGE	1987 <i>Plan-och Byggnadslagen</i> (The Planning and Building Act)
UNITED KINGDOM	1990 Town and Country Planning Act (1972 Act in Scotland) amended in 1991 by the Planning and Compensation Act

ended up in a common Environment Law of 1998. Further work is going on to bring this and the earlier Plan- and Building Law closer together. Portugal and Italy on the other hand are examples of countries where the relevant rules still are dispersed on a great many separate Acts and Decrees, and the struggle to join them has not been very successful. The dispersed legal framework there goes together with several types of planning instruments. There is always a risk that this will complicate and prolong development processes at the same time as the different rules are not always well adapted to each other. The general trend in the West European countries have, however, been to concentrate the relevant legislation (table 1).

Above, general trends in the development of administration and legislation with connection to spatial planning have been discussed. We will now go on to the resulting current spatial planning structure in the countries of Western Europe.

4. Planning Systems

4.1 Structuring principles

If you have a well defined 'planning area', i.e. if clear objectives are stated, the primary infrastructure is determined and the demands for social and economic service and development well known, then it may be possible to produce a 'blue-print' plan, a more or less technical proposal to solve land use and development problems in an optimal way. In practice, however, the 'planning area' can seldom be delimited in this narrow way. The actual situation and area must be fitted into a greater context. The perspective ought to be broadened in space, in time and in subject. In space means that before an optimal solution for a limited area can be found, the potential development concerning the main technical, communication and service systems, etc. in the surrounding area must be under control. The same applies to changes in time. A long-time perspective may be needed even for a project which will be implemented in a short time. Finally, before planning land use and development in a physical sense, social, economic, occupational and other development should be considered and maybe also planned in the same context as physical development.

The natural solution to this problem is hierarchical planning. Before solving planning problems in a limited area, structural and land use problems in the wider area are to be studied and guidelines for handling them worked out in over-view plans of different type like 'national plans', 'regional plans', 'structure plans', 'master plans' and so on. The over-view delineates the main features and actions concerning the physical, economic and social structure and gives a programme or framework for more local and detailed planning, which also may be discussed and agreed on between higher and lower authorities. To be able to do so, plans at higher levels ought also to include a long-term perspective and preferably take into consideration the relationship which may exist between land use, development and socio-economic conditions. The key-words in such programmes are therefore strategic decision-making, co-ordination between different sectors and levels, long-term considerations and setting-up of priorities. Within these programmes, different projects can later be developed.

On the other hand, making the perspective wider and planning for an extensive area in a long-term perspective, while simultaneously taking into consideration several factors, means that the degree of uncertainty increases. Ample space must be left for future changes in the strategic planning at the higher levels. One way to do so is to give broad guidelines for land use and technical structures but leave refinements and legal status to more detailed planning. Another is to let planning be a continuous process with successive revisions and adaptations to actual developments.

You may call this way to build up a planning structure a rational planning. It is a process involving successive decisions which gradually delimit the decision areas that follow. Most countries nowadays try to work along these lines with planning at different levels, where the higher level give the wider framework to be followed at the more detailed lower levels. In practice, however, it is often difficult to follow such schemes. One reason may be lack of time. To establish formal plans on different levels takes time. If time is short, it may be preferable to take informal consideration of the general planning environment and then go directly to the detailed project plan. Another

reason may be lack of planning resources. They may simply not be sufficient to work out covering structure and master plans for long-term development.

Against this background, many politicians and planners will give less weight to the ordinary rational planning pattern and instead advocate a more instrumental view: use those methods which make the most efficient use of available personal and financial planning resources to stimulate and control the development wanted. For practical reasons there must be a fair balance between comprehensive and sectoral or detailed planning. This view may influence how the structure of the planning system has been developed in practice, with differences between times, countries and parts of countries. Generally we find that simpler systems with a more direct approach have been common in earlier times, in less developed countries and in small administrative areas with less resources, while in the opposite cases more complete and covering hierarchical systems have been used.

This is valid also for the spatial planning systems of the West European countries. Differences exist but they are not always so obvious. The legal framework may be built up in a similar way with appropriate planning administration and instruments at different levels. But behind these facades the actual application and covering may be very different. This fact should be remembered when we now will relate how the spatial planning system is shaped at different levels in the countries discussed, a presentation which mainly has to be restricted to the statutory rules and where the single countries can only be referred to as examples. For a more detailed description of the system in an individual country, go to the Appendix.

In the following we will discuss types of spatial directives and plans according to their appearances at different hierarchical levels. Another possible subdivision may be according to their scope, something which is used in the EU compendium concerning spatial planning. This model is summarized in table 2 (from the EU compendium). As there normally is a close connection between level and scope the two models will not differ too much.

4.1.1 National level

At the national level the main contribution is seldom some kind of formal planning but laws, decrees and directives in combination with basic investigations and advice, control and supervision of spatial planning at a lower level. The main legislative power is always connected with an elected parliament while the executive power - including some applied legislation and directives - belongs to the Cabinet. In practice, in all countries a special ministry has the main responsibility for the spatial planning, but the ministry always includes also other sectors and activities and therefore also has different names in different countries. In Denmark, Finland, Norway and Sweden it is called the Ministry of the Environment, in Germany the Ministry of Spatial Planning, Building and Urban Development, in the Netherlands the Ministry of Housing, Spatial Planning and the Environment, in the UK the Department of Environment, Transport and the Regions, in France the Ministry of Infrastructure, Housing and Transport, in Spain the Ministry of Public Works, Transport and the Environment, in Portugal the Ministry of Public Works, Planning and Territorial Administration and in Italy earlier the Ministry of Public Works, later divided into two: the *Ministerio per il territorio e l'ambiente* and the *Ministerio della Infrastruttura*. In Luxembourg the *Ministère de l'Aménagement du Territoire* certainly is a minister of planning but in a wider sense than only spatial planning. In Belgium there is no ministry responsible for planning as

Table 2. Categorisation of spatial planning instruments (EU comp.)

Type of instrument	Purpose	Areas covered	Sub-categories
National Policy & Perspectives	To identify the national government's spatial planning policies and strategy. They include documents which give general guidance or performance criteria for development, and those which are spatially specific and are described as national plans.	The whole Member State, significant parts or special areas.	National perspectives Spatial policy guidance Sectoral plans/guidance
Strategic	To identify broad spatial development patterns for areas below Member State and above the municipality. They do not generally identify specific locations and are intended to be implemented through other 'lower tier' instruments which specify locations. They are likely to be incorporated, or be closely integrated with the expression of social and economic policy for the area. Strategic plans may be indicative in terms of the broad development patterns or programmatic in identifying specific quantities of growth and change for sub-areas.	Their boundaries are often tied to the administrative tier of government which prepares them (region or province) but they can be prepared for a 'functional planning region', such as a coastal zone. Some countries have more than one tier of strategic instrument.	General strategic instruments Second level strategic instrument for part of area Sectoral instruments City region plans
Framework (Masterplan)	To identify a general spatial framework and criteria for the regulation of land use over an area. They are locationally specific. They may be binding or non-binding in respect of regulation but are generally implemented through lower tier plans.	Generally the whole of one municipality, but where local authorities are small they may cover several, covering possibly a 'functional planning area' such as a town or city.	
Regulatory ²	To regulate the development and protection of individual parcels of land. These may be general regulation zoning plans, implementation instruments, or special instruments to secure particular types of development.	These may cover areas ranging from one site; a neighbourhood of one municipality; the whole of a municipality or more than one. Exceptionally, instruments identifying land use zonings are prepared for larger areas covering an administrative region.	Regulatory zoning instruments Local building control instruments Implementation instruments

¹ This categorisation covers the statutory planning instruments in use in Member States, but does not include cross border spatial planning instruments as generally these are newer, emerging informal instruments. They are discussed at the end of the section. Some instruments may fall into more than one category.

² Control may also be exercised by general codes which can apply over very large areas, even whole countries.

this is solely a regional and municipal matter. Already within the responsible ministry there is thus a certain integration between sectors close to each others. Beside these ministries there are always several others which have some connection with planning matters. The need of integration and common discussions is therefore obvious concerning many new and amended laws and directives, spatial policy, projects of national importance, etc. This can be attained by informal co-operation between two or more affected ministries. A certain co-ordination may also happen at the regular meetings of the whole cabinet, even if it then as a rule is too late to go into any detailed discussion.

In some countries specific actions have been taken to improve co-operation at a national level. France has thus established special institutions, *Délégation à l'Aménagement du Territoire et à l'Action Régionale* and *Comité interministériel permanent pour aménagement du territoire* - both placed under the presidency of the Prime Minister - which are responsible for the conception, implementation of national

planning policy and the definition of long-term planning objectives. In the Netherlands there is a *Rijksplanologische Commissie*, consisting of high level representatives of the various ministries, which has the objective to co-ordinate the actions and policies of the different national government departments in so far as these affect spatial development. The commission is also responsible for preparing the reports on spatial planning for the whole country. Often, however, co-ordination between different sectors may be a problem, also in planning connections. In some countries - for example Italy - it seems to be a tendency at both ministerial and lower levels that authorities and institutions work more or less independently of each other.

The main activities concerning planning at national level is as mentioned a framework of laws, decrees and guidelines which may be supplemented by more detailed regulations at a lower level. Central institutions, usually working within or under the umbrella of a ministry, may also - together with direct basis and support for departmental decisions - provide research, investigations, advice and planning models for practical application as well as some control concerning implementation. Formal national spatial planning, however, is not very common. More informal prognoses and scenarios concerning possible developments exist in most countries as well as formal and approved plans concerning certain sectors with spatial implications, as for example the French *Schémas directeur d'infrastructures de l'Etat*, approved by decree, which any major infrastructure project needs to be compatible with. In France, also successively revised *plans de la nation* have been established. They set the strategic choices and objectives but are mainly oriented towards economic and social development. It is also common that comprehensive national plans are more often directed in this way, or to decide priorities concerning funding of different investments, than to decide physical development matters. For example, the Irish National Development Plan thus details the major investment programmes likely to be considered for action during a five-year period and partly corresponds with the EU support framework. In Denmark *Landsplan perspektive* provide policies and goals for future spatial development and similar perspective plans and scenarios can be found in some other countries.

Sometimes statutory provisions for a national plan exist - as in Spain - but it has never been drawn up. In other countries it has been tried but not continued. Sweden thus decided around 1970 to implement a national spatial planning, mainly because of the risk that irregular industrial developments threatened many valuable coastal areas. It resulted in general guiding principles concerning localization of different activities and in more detailed prescriptions about allowed developments in specified - mostly coastal and mountainous - areas and gave further protection against exploitation of some rivers of great natural value (figure 2). The guidelines were partly inscribed in law. This plan has never been continued in a national scale but is still a base for handling of development projects in areas of national interest.

In Denmark a national zoning system was introduced in 1970 which divides the country into three zones: urban zones, where development is allowed in accordance with plans and regulations, recreational zones, where holiday and tourist development are allowed in accordance with the statutory regulations and plans, and finally rural zones where developments for other purposes than agriculture, forestry and fishing are prohibited or subject to special permission. This zoning has very much influenced later regional and municipal planning. The Danish national planning reports set further out

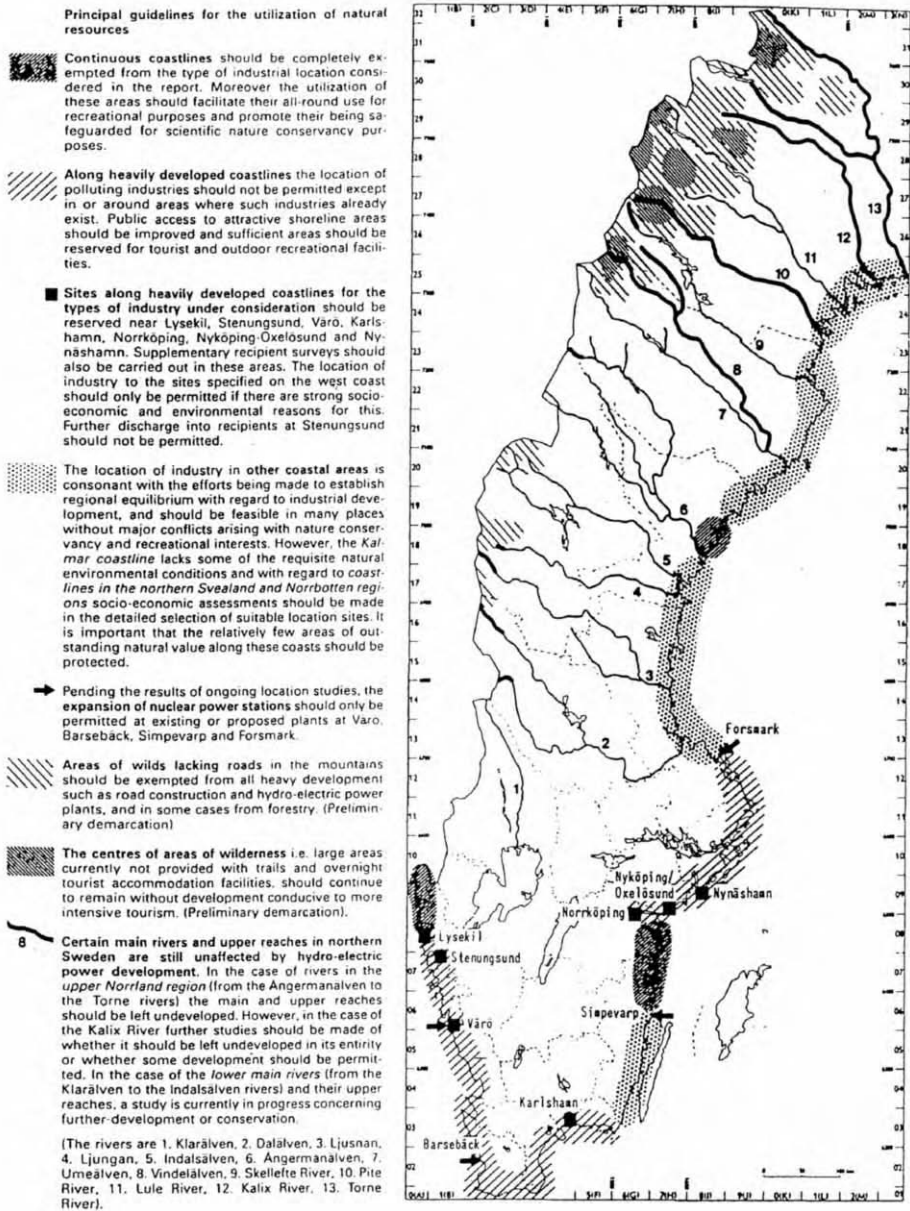


Figure 2. Main guidelines for specified areas according to the Swedish National Plan

current national planning policies and provides guidance for the regional and local authorities. Luxembourg has upheld a more continuous system of formal national planning. The minister responsible for spatial planning has to prepare national

programme directeurs, which have to co-ordinate the aims of the sectoral policies and define the principal development guidelines of the State and the corresponding territorial implications. They have national coverage, have to be revised at regular intervals and may be further detailed by sectoral plans.

The steering by the central government - beside the law-giving - takes in most cases more the form of overviews or general guidelines than formal national spatial plans. In Germany the *Bund* thus provides a detailed report on spatial planning and related issues, the *Raumordnungsbericht* which is laid before the federal parliament, *Raumordnungspolitischer Orientierungsrahmen* and *Raumordnungspolitischer Handlungsrahmen* as well as federal sector plans. In Finland the Land-Use Department has prepared strategic principles for national spatial development with different scenarios, in the Netherlands the Council of Ministers can determine aspects of national policy for spatial planning (*planologische kernbeslissing*), in England and Wales the government publishes *planning policy guidance notes*, in France a *Schéma national d'aménagement et de développement du territoire* is provided by law and in Italy the State supplies general guidelines for planning activity in the form of resolutions on general objectives or objectives related to specific sectors. It also provides certain national sector plans such as plans relative to infrastructure, which is common also in most of the other countries. Sometimes they have a strong land-use connection like the Danish zoning system mentioned above. So for example in Portugal the Ministry of Agriculture according to the National Agricultural Reserve Law is responsible for preventing urban occupation of good agricultural land and therefore administers a land-covering classification of soils with protection directive *Reserv Agrícola Nacional, RAN*. Statutory directives of different kinds are also usual which must be taken into consideration when planning at lower levels.

Other means of influence are the economic ones by funding of different projects, sometimes - as often in for example France - taking the form of contracts between the State and regions or municipalities. Even if no formal national plan exists, the central government can thus in many ways establish a framework for spatial planning at lower levels. This opens also a possibility to integrate different sectors within a common network and adapt investments in them to each other. In several countries - for example in Norway - the central government also finds possibilities to involve itself in the formal planning of individual projects of importance from a national view-point.

Maybe, however, the greatest need and the greatest possibilities to co-ordination between different sectors lie at lower levels, not least at one or more intermediate levels between the central State and the communes or municipalities; it may be regions, provinces, counties, districts, clusters of municipalities or something else. We will discuss all spatial planning at those levels under the common headline of regional level.

4.1.2 Regional level

In all West European countries there exists some kind of spatial planning - often combined with economic and social planning - as an intermediate link between the national level (in Belgium the level of the three regions) and the municipal level. It is often knitted to an earlier administrative division. In a federal State like Germany it is natural to place a considerable amount of power concerning the spatial structuring in the different *Länder*. When from the end of the 1970s, Spain was organized in 17 autonomous communities, it was equally natural to give their governments a main role concerning spatial planning. Also, where the State has since long been subdivided into

smaller units with own administrations - provinces, counties, districts etc. - it is furthermore natural to include some spatial planning powers in their functions.

Not seldom, however, new units have been established mainly for the purpose of planning and the implementation of plans. As a part of the general decentralization efforts in France from the 1980s, the earlier subdivision in departments was expanded by 22 regions directly involved in spatial, transport and educational planning. The UK has subdivision into districts established for different purposes and with differing boundaries. One type of these districts is essentially established for planning reasons. Furthermore, Finland has for overview planning purposes been subdivided into regions. In other countries, like Sweden, regions can be established by a decision taken by several municipalities to co-operate for creating a common development structure.

These different approaches may indicate that the need of some kind of regional planning is evident, irrespective of subdivision into administrative units, at the same time as it is often advantageous to make use of already existing administrations. Partly, it depends on the need to so to say build over the gap between the big State and the often rather small local authorities even with regard to the spatial planning structure. Before solving the local problems it might be necessary to see the greater connections. It is obvious concerning transport networks as well as many other types of physical, economical and social infrastructure. A municipality is not a world of its own but is in many ways connected to a wider surrounding.

Regional plans may thus be needed from several viewpoints. One purpose may be to provide a base for a *general economic and social development*, a purpose which may be of especially important weight for weak and deleted regions. The plan may give a better understanding of what can be done by the region itself, given its resources and natural advantages, and in this way arouse new initiatives from both individuals and authorities as well as a framework for the authorities' handling and support concerning economical and social matters. But a main objective may also be to document the needs of the region to the national authorities and point to special investments in infrastructure, enterprise development, social institutions etc. which might be undertaken or supported by these authorities, to provide so to say a program for their actions. In several countries the regional plans will therefore lead to formal contracts between national and regional authorities about support of different kinds.

Regional planning may also be needed for *co-ordination and integration*, in space, in time and between different sectors. Much of this integration may be possible at a lower level. But still a satisfactory co-ordination between major objectives of public traffic, higher level education and health care, infrastructural network, areas for housing, production, protection and recreation, etc. is often best done at a regional level.

It is also a question of co-ordination in time. Short time objectives must be adapted to long-time development goals. This is of course necessary already at a local level. But to get the right perspective, wider considerations are often necessary. They can make it possible to define and delimit the 'planning area' at a lower level in a better and safer way.

A problem in all countries is to further co-ordinate and balance the objectives and actions of different sectors. The different sectoral authorities make their own plans concerning investments and development. There is much complaint in several countries that these are made rather independent of each other. Regional plans can then be a strong means to integrate and co-ordinate these plans into a balanced scheme for the region as such, also seen in connection with the plans of adjoining regions. To a great extent regional planning is thus a means of co-ordination and strategic consideration.

But also several issues of *land use and physical development* should be clarified at a regional level. Seen in this scale, where are then the most appropriate locations for further urbanisation and development considering labour opportunities, communication net-work, social facilities etc., can the regional hierarchy of urban places be improved to serve the region better, what areas should be protected from further development, how to consider recreational needs, how to best handle waste and so on? Many of these questions may be best solved at a local level but there may also be a need of a wider perspective.

A main objective in regional planning is always to clarify trends in the development, resulting needs concerning investments to be done, suitable alternatives for this and discussion of available resources. But otherwise different countries may focus differently and lay more or less weight on the now mentioned objectives. In some countries regional plans concentrate on economic, social and infrastructural development, while land use questions are discussed only in general terms, only detailed in certain cases as for instance concerning new urban development areas, protection and recreation areas, etc. In other countries the plans go deeper into physical aspects.

France is an example of a country where the region plan is intended to provide a strategy for *aménagement du territoire*, a broad concept which includes a total development of the region in the economic, social and cultural fields, but where the land-use questions play a rather subordinate role. France has a two-tier regional planning system where plans can be erected at both regional and departmental level. Based on the plan, the State and the region may agree about a *contrat de plan*, allocating relatively greater funding for especially infrastructuring work to poor regions. The regions - as well as the departments at a lower level - can also produce sectoral planning instruments. In certain areas, particularly in sensitive coastal areas, special schemes can take up land-use questions in more detail. In *Germany* on the other side, the planning at *Länder* level takes the spatial aspects in more consideration. For the *Land* as a whole *Landesentwicklungspläne* or *Programme* are established. They include comprehensive spatial planning objectives and function as documents for the co-ordination of policies and decisions of a spatial impact. The results are partly presented in maps at a scale of 1:500 000 or smaller. They deal not least with objectives concerning the system of central places, axes of transport, communication, networks of settlement, built-up areas and undeveloped open spaces. Special sector plans for recreation, conservation, settlement etc. may also be drawn up. The *Länder* also prepare plans for sub-regions like *Regierungsbezirke* and *Landkreise*, which plans contain both descriptive documents and diagrammatic presentations together with texts providing the reasons for the plans. The descriptive documents take up not only the objectives for spatial and settlement structures, land uses, infrastructural locations, etc., but also planning policies for the social, cultural and economic sectors, while the diagrammatic presentation (in scales ranging from 1:50 000 to 1:100 000) should illustrate the classification of areas into densely built-up areas, suburban and commuter belt, rural areas and structurally weak areas as well as axes and systems of central places infrastructure, etc.

Both French and German region planning has thus a broad character but give different weight to the spatial elements, which are more pronounced in Germany. In the *Danish* regional planning, these are still more pronounced. The plans are prepared and adopted by county councils and consist of two parts: guideline for land use and a report presenting the premises on which the plan is based. The guidelines establish the general

structure for land use including urban development, nature and environmental protection as well as the location of large public institutions and transport facilities. The land-use maps are based on topographic maps on scale 1:100 000 or 1:200 000. A part of a region plan is the general urban/rural zoning, based on the zoning system which was established in 1970 but further detailed in the region plans. Another important feature is the establishment of guidelines on locating enterprises and facilities that require special consideration due to their effects on nature and environment.

England has another way of dealing with the regional planning matters. No formal regional plans exist. But regional planning guidance notes are published by the Department of Environment, Transport and the Regions. The notes are short documents which contain no detailed map but set out a broad strategy, taking account of national guidelines. They look ahead for a period of about 10 years and cover priorities for environment, transport, infrastructure, economic development, agriculture, mineral and waste treatment and disposal. The perspective is thus broad, but the guidelines are of a general nature and contain few details. At a lower - county - level, formal structure plans must however be established. They provide firm strategic guidance for the whole of the county area and have usually a 15-year time horizon. They set out the strategic framework for local planning and are statements with reasoning and key diagrams, which show both the general distribution of new development and areas to be protected in diagrammatic form.

Already in this four examples we thus find how the approach to regional planning may differ in some main respects (except in proceedings and legal status, which will be discussed in following paragraphs). The region may agree with existing administrative borders or be established for planning purposes. Regional planning may further occur at one level or at two levels. It may concentrate much on land-use matters or only give broad overviews or guidelines.

Looking at the other countries we find that *Sweden* has little of formalised regional planning. At the level of the of old existing counties the elected county council is responsible for regional health care and traffic planning, while the regional State authority *Länstyrelsen* is obliged to deal with more or less informal coordination and control of different sector plans, including some control of municipal spatial planning. Certain economic planning and funding to stimulate enterprises and municipalities are also part of its duty. Formal regional land use planning exists only around the biggest cities within defined boundaries of included municipalities.

The neighbour *Finland* has a different solution. Special regional environment centres have been established, including a number of municipalities. They belong to the State organisation and are responsible for environment protection, land use guidance and supervision, protection of nature and cultural environment as well as water resource management. The regional councils on the other hand do not belong to the State administration but are joint municipal boards and are responsible for the general development of the region. The regional planning system includes a strategic regional plan with a broad perspective concerning goals and future development as well as a regional land-use plan, prepared in stages according to specific regional needs and presented on a map on the scale of 1:100 000 - 1:200 000, indicating the spatial pattern.

In *Norway* county plans are obligatory, to be established by the county council and to be renewed each electoral period. A plan consists of objectives and long-time guidelines for development, use of land and natural resources and shall further contain a co-ordinated program of action for the activities of different sectors. When

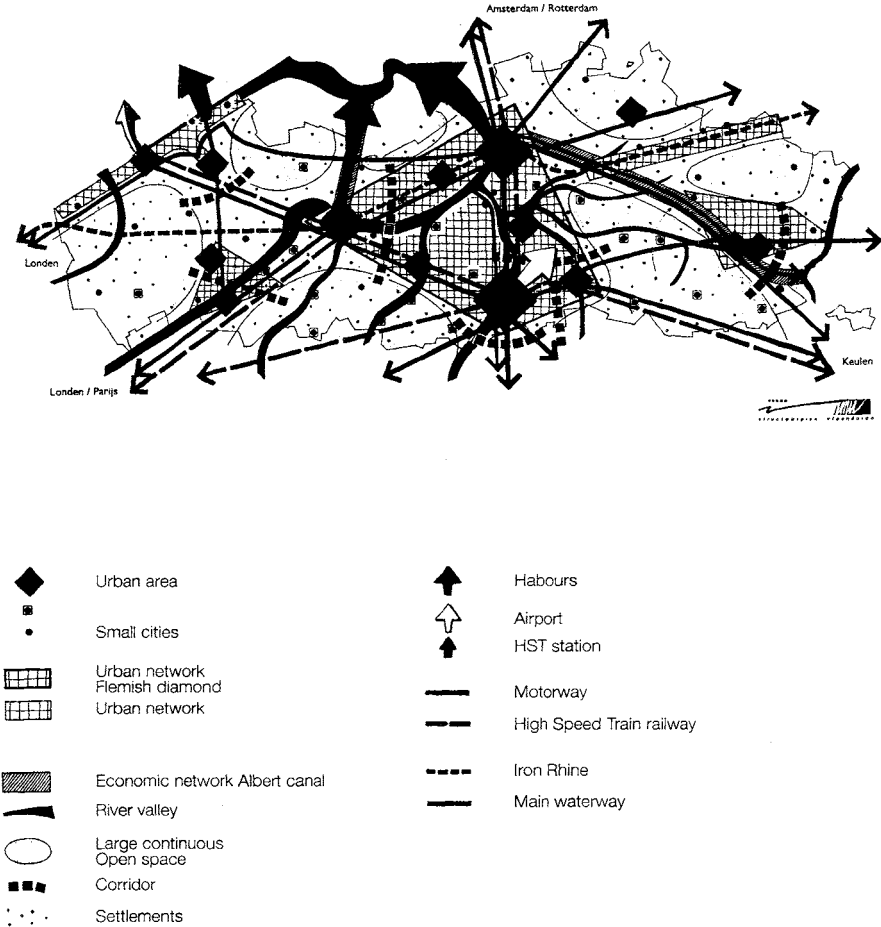


Figure 3. Structure plan for Flanders (EU comp.)

appropriate, a county plan may be prepared for specific areas of activities, groups of projects or for parts of the county.

In the *Netherlands* the provincial council may - but is not obliged to - make a regional plan which has to be revised every 10 years, but where parts can be elaborated later. The plan is rather general but must present the policy for spatial development, if necessary with phasing. It may be used to integrate and coordinate spatial policy both vertically and horizontally. It consists of a map - preferred scale 1: 50 000 - and a written statement explaining the plan and describing the research and consultations behind it. At a lower level, a *strukturplan* may be established through collaboration between municipalities, especially for city-regions.

In *Belgium* spatial planning is, as mentioned, performed by the three regions and the municipalities and is partly different between the regions. In Flanders both regional and provincial spatial planning exist, both including a structure plan with vision of the use of space as well as destination plan containing regulations (figure 3). The regional

structure plan balances and sets priorities for numerous sectoral considerations and interests. In the Walloon Region the regional plan intends to define strategic goals but also designs development projects for dynamic areas. Even sub-regional plans exist, covering several municipalities and also containing land-use regulations. In the Brussels Capital Region the regional plan contains both a more general development plan and a land-use plan. In *Luxembourg* the law enables the State and the municipalities of the different regions to work out a regional development perspective in close partnership. If they want to, the municipalities may also constitute regional syndicates as a structure for intermunicipal co-operation and for the implementation of the measures they are to take.

In *Ireland* formal regional planning has earlier been less developed since much of the strategic planning and planning for EU projects has been done at a national level. Many government departments and agencies have regionalized some of their activities but there has been little of horizontal co-ordination at regional level. However, the eight regional authorities established 1994 are required to prepare regional reports. Such reports may represent a beginning of a co-ordinated regional spatial analysis of the activities of the various development agencies.

In *Portugal* a regional physical plan has recently been developed. It is a supra-municipal plan involving a variable number of municipalities grouped according to a government decision. It defines for regions or sub-regions the criteria for the spatial organisation of activities and the use of land. It is including both written documents and graphic material and is required to take into consideration the hierarchy of urban centres, the main infrastructures of regional and national importance and areas which should be protected. The Regional Directorates of the Environment and Natural Resources furthermore have to prepare proposals for the geographical definition of *Reserva Ecológica Nacional, REN*, intended to protect areas which have specific ecological characteristics, while the Regional Commissions for the Agricultural Reserve is responsible at a regional level for defining and classifying of good agricultural soil which should be protected as *Reserv Agrícola Nacional, RAN*.

In *Spain* where the regions have a certain degree of autonomy there may be regional complementary laws and guidelines concerning planning matters. But there may also be given more specific spatial directives in territorial co-ordination plans. These include maps indicating the broad geographical distribution of uses and activities, such as areas which should be subject to limitation or specific protection, the location of basic infrastructure, communication, water and energy supply, drainage, etc. Still, however, only some regions have approved this type of documents.

The regions in *Italy* were formed only in the 1970s as a matter of decentralisation, with self-governing power for programming and planning their territory. They shall prepare *piano territoriale di coordinamento*, which may cover all or part of their territory and shall establish guidelines relating to the zones to be reserved for special uses or subjected to special restrictions and identify sites selected for new urban development or for particular uses, including the principal communication system. They may also prepare specific landscape plans containing indications, prescriptions and restrictions relating to the environmental assets of the territory. Since old, Italy is also sub-divided in provinces. They have possibilities to prepare plans indicating land-use zoning, siting for infrastructure, hydrogeological works and areas assigned as nature reserves or parks, if all this is not already regulated in the regional plan. Plans may also be erected for sub-regions, especially around important metropolitan areas - *città metropolitane*.

Besides these more comprehensive statutory plans, most countries also produce different sectoral or informal plans covering the whole or parts of the regions. In general, regional planning of different kinds is intended to cover the gaps between the State and the municipalities, organise and stimulate regional development, constitute a frame for land-use and co-ordinate different actions and investments in the region. All the countries in question have stipulations about regional planning in their planning laws. But in many countries, as for example Ireland, France, Spain and Italy, all regions are so far not covered, so gaps between national and local planning still exist. In its more formal appearance regional planning is commonly of a rather late origin, based on legislation from the last decades. Recently, it has in many countries been influenced by the EU funding programme. But this is so far more characterised by not legally regulated planning of specific projects within functional regions, which may more or less deviate from existing administrative units.

4.1.3 Local level

Local level means here in most cases municipality level. Often, however, several municipalities join for planning. The UK has in several respects a different administrative system and we will there mainly discuss planning at district level. In all the countries, there exist local elected councils which have the main responsibility for adoption of plans. But the production of drafts and the general administration of the process lies mainly with some executive organ as a committee or the mayor, sometimes supported by a minor group. This executive has often also the power to make smaller modifications of the plan or exemptions from it, provided that they do not endanger the plan. A common name for all these administrations will here be local authorities.

In all the West European countries the local authorities have the main responsibility for the most important physical planning. The guidelines, frames and co-ordination from higher levels are useful for further acting. But without local plans only very limited development is possible. Such plans have as main objectives to co-ordinate development projects, determine the land use pattern and give necessary regulations for allowed exploitation and land management within each land use category and are required in all the countries before any considerable building project can be started.

It is in the first hand the local authorities which have to decide about such plans. They have the power to initiate a plan, to make the first draft, organise possibilities for the citizens to give view-points and objectives and then approve a maybe modified plan. In most countries the approval is not final. Sometimes, this is the responsibility of a higher authority which also has power to make amendments in the plan. Sometimes the higher authority is only able to annul the plan in accordance with specified reasons, not to change it against the will of the local authority. Sometimes the approved plan can only be objected to on procedural grounds. Generally, one might say that the trend has been to give the local authority greater power, often expressed as a 'plan monopoly', and to delimit the detailed control at higher levels.

The differences between the countries partly depend on differences in population and resources between the local units. France for example has as averagely small municipalities in rural areas and partly therefore the local plans will be more depending on approval by higher authorities. Sweden on the other hand effected a radical amalgamation of municipalities after 1950 and at the same time increased the planning power of the local authority considerably. One way to overcome too small administrative units is of course co-operation of several units around common planning

activities. This is put into practice in many countries.

Also otherwise local planning has changed. Earlier, it was in main urban planning, concentrated on already built up or projected urban areas. Sometimes the plan was initiated because of a near exploitation, sometimes it was more intended to be a pattern for gradual concentration and development, in which case it often enclosed a considerable town area. For overview and long-time perspective master plans were recommended, often also including some surrounding areas expected to be urbanized within the planning period. But formally approved master plans were not very common.

Nowadays, however, all the discussed countries (with some exception for Finland) have inscribed in law as an objective and often as a compulsion, that the local authority has to establish plans covering its whole or main area and including already developed, develop-to-be as well as undevelopable land of different categories and with specific regulations for each zones. Such structure (framework) plans may play an important role in the strategy to co-ordinate different sectors of spatial importance. The different land uses must be illustrated on maps, which should also show main infrastructure, etc. The degree of detailization may change, but the intention is always to get a document of strategic nature concerning the expected and wanted development during maybe 15-20 years. In most cases it is also prescribed that such 'structure-plans' should be revised at certain intervals.

All countries also have prescriptions concerning a more detailed (regulatory) planning, covering in the first place areas which are projected for more immediate development or changes. While a structure plan always is the responsibility of the local authority, such detail plans may sometimes be left to the private developer or established in close public-private participation. But also in such cases the plan must always be open to public inspection and be approved by the authorities.

Within this general framework there are variations - partly for similar reasons as those discussed concerning regional planning - both concerning the specification of land use in the different plans, the type of regulations and the process and legal status. The last two will be treated in the next paragraph, whereas concerning the others here we will mention some characteristics in different countries.

Both in the Nordic countries and in Germany there is thus a strict statutory division between local over-view or structure planning and detailed development planning. The first one provides the frames, has usually a long-term perspective but must be regularly revised and normally covers the whole or the greatest part of the municipality but has in *Finland* character of master plan, mostly covering only the urbanised area (as earlier mentioned, the Finnish region plans have as a rule a strong land-use component). Dense settlement can however only be formed according to a detail plan. Also in *Norway* the local authority may establish a comprehensive master plan intended to cover the whole municipality but which may also be prepared for only a part of the territory. Its long-term component consists of goals for the development, guidelines for the sector planning and a part referring to land use. The short-term component comprises an integrated program of actions for the sectors' activities during the next few years. Local development plans will then regulate development of specific areas. The *Swedish* municipality is statutory obliged to make a structure plan covering its whole area. It indicates the main ways in which land and water should be utilized. Among other things it accounts for how national interests will be considered at the local level and forms in this way a document of agreement between the State and the municipality. It may be further elaborated for parts of the municipality. New urban

development as well as development with significant impact on surroundings need however a detail plan, indicating public and private areas and usually detailed rules of use with regulations needed. For limited areas not covered by a detail plan specific area regulations can be adopted. Also in *Denmark* statutory comprehensive plans are prescribed. They establish a general structure covering the whole municipal area and are illustrated on maps on a scale between 1:10 000 and 1:50 000. To implement major development proposals *lokalplaner* are needed with detailed land use regulations and maps generally on a scale between 1:500 and 1:5000. They usually intend to implement projects within a limited area but may also be used for other reasons like issuing regulations for protecting and preserving valuable architectural features, etc.

Also in *Germany*, the municipality (*Gemeinde*) is obliged to produce a preparatory land use plan (*Flächennutzungsplan*) for the entire area. It should show area zones for development, the level of development, infrastructure, service facilities, communication facilities, green areas, environmental and landscape protection, agricultural areas, etc. It is - as underlined by its name - essentially a zoning plan, illustrated on maps varying as to scales from 1:5000 to 1:25000 (figure 4). For detailed control of the building development a *Bebaungsplan* is required. It must include provisions concerning the specific land use areas, land to be covered by buildings and traffic areas as well as protected areas and buildings. The plan comprises a map and written descriptions and regulations. As in the Nordic countries it is normally detailed and a responsibility of the local authority. However, a binding land use plan, called the *Vorhaben und Erschliessungsplan* (project-and infrastructure plan) can also be initiated and prepared by a developer. The plan and a contract with details concerning implementation has, however, to be adopted by the municipality.

Concerning the *Netherlands* the municipal council may - but is not obliged - to adopt a structure plan, which may cover all or part of the municipal territory. Several municipalities may also go together. The plan must contain one or more maps in the preferred scale of 1:25 000 and a written statement giving the thinking behind the plan and the results of research and consultation carried out. The municipality is furthermore obliged to make one - or several - *bestemmingsplan* for the territory outside the built-up areas. For the territory inside such built-up area the municipality may decide whether such a plan should be made (in practice most municipalities have covered the major part of their built-up areas). The plan must contain a description and (mostly detailed) content of the designations made for the plan area, one or more maps of that area showing the designations (on a scale of at least 1:10 000), if necessary usage-rules about the form of the buildings, and finally the rules which bind the municipality in operating the plan. It may also be specified in the plan that it is to be further elaborated or that it may be modified within certain limits. Such activities of elaboration and modification are normally the responsibility of the municipal executive. A specific form of such a plan is an urban renewal plan.

The Flemish region of *Belgium* has a similar local planning system as the Netherlands with a structure plan and a destination plan which both cover the whole territory of the municipality, but where the destination plan goes more into detail and must unconditionally contain certain in law specified elements. In the Walloon and Brussels Capital region the structure plan also covers the whole territory. All regions have further sub-municipal land use plans which must contain a description of the existing situation, a detailed description of the destination of the area covered, road

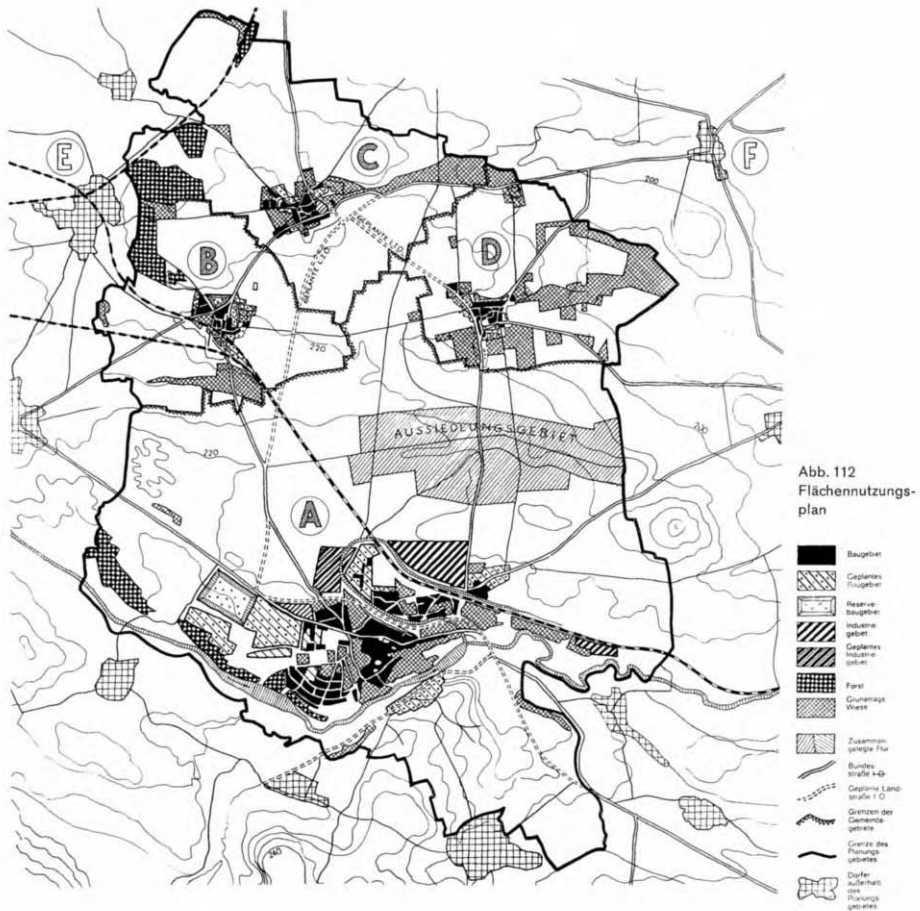


Figure 4. Flächennutzungsplan (local structure plan) of four German Gemeinden (EU comp.)

trajectories and changes intended and regulations concerning the location, the size and the type of new buildings. It may also contain other regulations. Also in *Luxembourg* the municipal authority is obliged to produce a municipal development plan, covering its whole territory, which not only may give the general structure but may also contain regulations governing building rights, public roads and development sites.

In *France* with its often small municipalities the public local spatial planning is based on two major instruments: the *schéma directeur*, a structure plan, and the *plan d'occupation des sols*, a land use plan. The first one has to be established by a joint authority of communes. It is not compulsory but depends on the interests of the communes concerned. It determines basic orientation for the development of the area covered and the general use assigned to land for developments, including major infrastructure projects and consists of a report and graphic documents on a scale generally between 1:10 000 and 1:25 000. The *plan d'occupation des sols* is

established by a municipal council for a part or a totality of its area, sometimes also for several communes. It determines general rules for the use of land, including prohibitions or restriction and safeguard areas, the urban and development area, the design of communications, and so on. It consists of a report, graphic documents, generally on a scale between 1:2 000 and 1:10 000, and a code of regulations.

Earlier, few municipalities in *Portugal* - with the exception of the large cities - prepared statutory development plans. In later years this has changed. Now, a municipality has the duty to produce a *Plano Director Municipal*, providing a strategic framework for the development of the total municipality. It consists of a regulation illustrated on a map with restrictions and another map containing plan proposals in terms of land use and development control. Further it contains background, the intended time scale for main public works and a financing plan. Other types of local plans define the spatial organisation of urban areas or are detail plans for specific areas specifying land uses, building guidelines and public open spaces. They may regulate the subdivision of land, the localisation of buildings, number of storeys or height, type of dwellings and total building area.

In *Spain* the main structure planning instrument at the local level is the *Plan General*, which also may cover the total area of more than one municipality. The land contained is normally classified in up to five types: urban, developable (programmed and non-programmed) and undevelopable (normally and specially protected). With regard to urban land, the objective is to make a fully detail plan, fixing uses and intensities of use (density, height, typology of buildings, etc.), alignments, levelling and delimitation of protected areas. The plan may also include an action program which gives the operations to be carried out in the first two four-year periods of the plan. The law further specifies different types of more detail plans, both for buildings and other specific purposes. These may give private initiative the greatest possibility of collaboration with the administration in drafting of planning proposal.

In *Italy* the communes - alone or jointly - are obliged to prepare a master planning instrument for their territory, indicating principal communication routes and the division of the whole territory into detailed zones, defined in law, and the restrictions to be complied with. The plan offers no fixed development rights, but is implemented at the urban planning level by means of detail plans but also by planned private subdivisions. There are different types of detail plans which also are used for different purposes. The *Piano Particolareggiato* is mainly used in built-up areas and expansion areas and the *Piano per l'edilizia economica e popolare* in connection with social housing while the *programmi di recupero urbano* and the *programmi integrati di intervento* are used for urban regeneration. If a complicated restructuring of property rights is needed, the plan may provide for use of the *Compart* instrument. This is the formation of consortium of owners who own at least 75 % of the property which may then be allowed to expropriate the remaining land.

In *England and Wales* all non-metropolitan district councils now have an obligation to prepare one district-wide local plan, which sets out detailed policies and proposals allocating (or protecting) land for specific purposes. It includes proposal maps on a scale generally between 1:500 and 1:10 000 (there will usually be one map for the whole district and other more detailed local maps). Each of the seven metropolitan district councils has to prepare a unitary development plan, which will replace earlier structure and local plans and bring aspects of both into one plan. Part I in such a plan is a framework of general policies and proposals, while part II contains detailed policies and proposals illustrated on maps at a scale generally between 1:500 and 1:10 000.

Further detailed planning is made by the private sector in connection with a planning permit.

There are in total 88 separate local planning authorities in *Ireland*, most of them county councils or urban district councils. According to the law each is required to make a development plan for their functional area and to review it at least once every five years, even if this has not always been possible in practice. In addition, the county planning authorities are required to make and to review separate development plans for any scheduled town within their area. A plan consists of maps and written statements. In the case of urban areas it must include objectives for land use zoning, the development and renewal of obsolete areas, preservation, improvements and extensions of amenities, provisions of car parking, road improvements etc. The written statements should include both a strategy section and a detailed section. In cases where a planning authority wishes to expand part of the development plan to provide greater detail in an area where it anticipates significant development, the authority may prepare an *action area plan*.

The tables 3 and 4 record the main local structure or framework instruments and the detailed or regulatory instruments in the different EU-countries, where sometimes the regulatory instruments may cover the whole municipality or even several municipalities but mostly cover only a part of the municipality (from the summary report of the EU compendium).

Above we have only discussed the statutory planning systems. Besides, there is much spatial information and planning of informal nature which is not regulated in law and only sometimes leads to formal approvals by the authorities. It may concern environment, land use, building and infrastructure, etc. It will not be discussed in this connection which is concentrated on statutory systems. There will also be much planning of strictly sectoral nature, which may have spatial implications. This type will be somewhat discussed in section 4.4 below.

We can neither in this connection elaborate on other types of more informal planning in connection with EU regional support or in case of crossborder planning. They sometimes involve participation of several countries as for example concerning committee work for development of the Baltic region, the region of Barent's Sea, etc. They may be important from both economic and spatial view-points but have so far very little influenced the statutory planning system.

The general structure of the spatial planning system may as presented above be rather similar in the actual countries with mostly three levels of influence but only two levels of physical planning, although where the regional planning sometimes is provided at two levels and the local planning in principle includes both a general overview of the entire area and instruments for detailed physical planning of parts of the area. However, within this frame there are considerable differences between methods, power, details concerning land-use and covering. This may also be the case concerning planning process and legal status of the different plans. We are now turning to these questions.

4.2 Planning process

The main spatial planning responsibility at the *national level* is to establish a suitable framework for the planning at lower levels. The formal process to approve such a framework is generally strictly regulated. The law gives rules how new or changed laws, decrees and binding guidelines should be proposed and decided by the parliament

Table 3. Main local structure (framework) planning instruments (EU comp.)

Member State	Framework instrument
Belgique-Belgie	<i>Gemeentelijk ontwikkelingsplan/Plan communal de développement (B) Algemeen plan van aanleg (F) Schéma de structure communal (W)</i>
Danmark	<i>Kommuneplaner</i>
Deutschland	<i>Flachennutzungsplan (F-Plan)</i>
Ellas	<i>Geniko poleodomiko schedio (GPS)</i>
España	<i>Plan general. Normas complementarias y subsidiarias/Proyectos de delimitación de suelo urbano</i>
France	<i>Schéma directeur and directive territoriale d'aménagement (DTA) (2)</i>
Ireland-Éire	<i>Development plan</i>
Italia	<i>Piano regolatore generale</i>
Luxembourg	<i>Projet d'aménagement général</i>
Nederland	<i>Structuurplan</i>
Österreich	<i>Räumliches Entwicklungskonzept (REK) (1)</i>
Portugal	<i>Plano director municipal (PDM)</i>
Suomi-Finland	<i>Yleiskaava/General plan</i>
Sverige	<i>Översiktsplan (OP)</i>
United Kingdom	<i>Local plan and unitary development plan (UDP) part two</i>

(1) For five Länder.
(2) The DTA is introduced by the new Act on Planning and Development (1995) and is issued by a Government decree but is of broader local scope

and in which cases the responsible minister - alone or after approval of the whole cabinet - shall have the power to decide or to delegate the decision power to another authority. All the West European countries have detailed rules concerning these matters as a rule of rather similar content. Normally, the basic legal prescriptions have to be established by the parliaments, while prescriptions of a more detailed nature are as a rule left to the executive power.

Behind the approval procedure lies, however, preparatory work. The process to come forward to suitable proposals is seldom regulated in detail. It might be done as investigations within special appointed or fixed committees inside or outside the ministry in question, by subordinated authorities or by special consultants, whatever is most convenient in the particular case. Wide consultations with key authorities, organisations and individuals in connection with the preparation work are presumed and sometimes prescribed but seldom regulated in detail, even if sometimes some compulsory consultations are mentioned. But essentially the preparatory process is not strictly regulated.

Table 4. Detailed (regulatory) planning instruments (EU comp.)

Member State	Area covered by the instrument		part of the area of the municipality
	more than one municipality	the whole of one municipality	
Belgique-België		<i>Gemeentelijk Ontwikkelingsplan/Plan Communal de Développement (B)</i> <i>Algemeen Plan van Aanleg (F)</i> <i>Schéma de structure communale (W)</i>	<i>Bijzonder Bestemmingsplan/Plan Particulier d'affectation du sol (B)</i> <i>Bijzonder Plan van Aanleg (F)</i> <i>Plan particulier d'aménagement/schéma directeur (W)</i>
Danmark			Lokalplaner
Deutschland			<i>Bebauungsplan (B-plan)</i>
Ellas		<i>Schedio poleos — Poleodomiki meleti</i>	
España	<i>Plan General</i> <i>Normas Subsidiarias</i> <i>Plan Especial</i>		<i>Programa de actuación urbanística (PAU)</i> <i>Plan parcial (PP)</i> <i>Plan especial (PE)</i> and others
France	<i>Plan d'occupation des sols</i>		
Ireland-Éire			<i>Action area plans (1)</i>
Italia		<i>Piano Regolatore Generale</i>	<i>Piano particolareggiato (PP)</i> <i>Piano di lottizzazione (Pdl)</i> <i>Piano di recupero (Pdre)</i> <i>Piano di edilizia economica e popolare (PEEP)</i> <i>Piano degli Insediamenti produttivi (PIP)</i>
Luxembourg		<i>Projet d'aménagement général</i>	<i>Projet d'aménagement particulier</i>
Nederland		<i>Bestemmingsplan (including Stadsvernieuwingsplan -urban renewal plan)</i>	
Österreich		<i>Flächenwidmungsplan</i> Land use plan	<i>Bebauungsplan</i> Building regulation plan
Portugal			<i>Planos de urbanização (PU)</i> <i>Planos de pormenor (PP)</i> <i>Loteamentos (land subdivision schemes)</i>
Suomi-Finland			<i>Asemakaava (in towns and cities)</i> <i>Rakennuskaava (in rural municipalities)</i> <i>Rantakaava (in shore areas)</i>
Sverige			<i>Detaljplan (DP) (and others)</i>
United Kingdom			<i>Simplified planning zones (2)</i>

(1) May or may not be statutory.

(2) Although there is the capability to prepare simplified planning zones, they are rarely used.

More detailed process regulations are sometimes attached to production of national spatial plans or spatial decisions of national importance. The Netherlands for example prescribes that before the responsible minister adopts a so called planning key decision, he has to have needed consultations with provinces, municipalities and water boards and further publish the intended content and wait for reactions, which then are summarised. After hearing the opinion of the national planning commission, the government comes to a conclusion and sends the matter to the parliament for approval. In the few countries which have a statutory national plan - as for example Luxembourg - there are also some regulations concerning consultations to be taken and the general procedure of preparation, process, proposals publishing and adoption.

Also in cases of national plans for specific sectors (main road network, railway network etc.) there are normally more or less binding prescriptions concerning the process. When for example the question is to establish a national roads scheme in France it must be drawn in consultation with the regions and named special committees and authorities. It shall be supported by a public assessment of the social and economic

benefits of the projects and may after having been supported by inter-ministerial planning committee be decided by a ministerial decree.

The national authority can be more directly involved in physical planning at appeals or approval of plans produced by authorities at a lower level. There are always stipulated rules concerning the judicial proceedings in these matters, but these are of minor interest in this connection.

The process at the establishment of *regional or provincial* plans or guidelines can be somewhat different within the West European countries, partly because objectives and contents of the plans differ. Also the type of authority responsible for initiative and process differs. In a small state like Luxembourg where the central government has a strong influence, the regional plans are elaborated by mixed groups including representatives of the State and the municipalities concerned. In some countries - like Denmark - popularly elected regional or county council has the responsibility to prepare and adopt regional plans within the frames given at the national level, still, however, usually subject to veto or change from the ministry of planning or environment. In Finland joint municipal boards consisting of representatives from the municipal councils take over the common planning. It may also - like in France - be an elected regional council supported by a strong State administration and specific regional government organisations. In other countries - like Portugal - the regional plans may be prepared by regional State co-ordination commissions, the 'prolonged arms' of the central government. In still other countries - like Spain and partly Germany - the government of autonomous regions or *Länder* may have the main responsibility. Or it can be like in Sweden where an elected county council is responsible for planning of regional health care and traffic organisation, while an appointed State authority at county level takes over sector co-ordination and some regional planning of mostly economic nature, while in a few cases several municipalities join in a region and an appointed body takes over the strategic planning.

Concerning the process itself the main course when producing a region plan is rather similar in the different countries. The initiative to produce or revise a plan comes normally from the region council if such one exists or else from the regional State organisation as for example in Portugal. The council will normally at the same time provide some program or guidelines. The work is then implemented by the regional executive, by its own staff or by appointed consultants in co-operation with the staff. Basic studies and widespread consultations with municipals involved and State and regional authorities and organisations follow. On this basis a draft is prepared. After a preliminary examination by the regional council or other administration it is open for public scrutinizing. This may take different forms. Submissions are compulsory to municipalities and important State and regional authorities (governmental, infrastructural, environmental, etc.), normally also to special commissions and important organisations. Several countries - for example Finland - are also active in obtaining a wide participation by producing booklets with concentrated information for a major public. In England also a panel-lead public hearing is a norm. During the public inspection the field is free in all countries for representations and objections by authorities, organisations and individuals. The thereafter draft goes back to the regional council together with representations made and the council will then after possible amendments approve the plan. Usually, higher authorities later have the power to approve, reject or sometimes even change the plan.

A similar process is normal also in cases of intermediate planning at lower levels, provincial or groups of municipalities. Also then some type of council is established

which will initiate, lead and approve the planning much in the same way as said above.

Also the *structural planning at the local level* of the total area of a municipality, district, etc, is usually processed according to similar lines. A difference might be that the participation by the common public is given greater weight. The municipal planning has a more direct influence on land-use matters and other local conditions than the regional planning. The local people are therefore usually more deeply committed in the planning process, which consequently ought to be adapted to this situation. Already at the stage of programming and discussion of objectives, ways may be found to give not only the municipal staff and different sectors but also organisations and individual citizens an opportunity to express opinions before the municipal council takes position. Rules concerning this are for example given in Germany and Sweden. Also continued consultations during the draft work are desirable. To give more room for public participation, both during the planning period and when a draft is finished, has lately been a strong tendency in practically all the countries concerned.

Only to a limited extent, however, is this reflected in laws and decrees. Statutory and compulsory are still in most countries only consultations with relevant authorities, committees and organisations and public display of the provisional draft during a specified period of time, with opportunities of representations and objections. If then the municipal council makes considerable changes in the displayed draft, a second public display is usually prescribed. A country like Denmark has, however, more detailed regulations concerning participation, including that the municipal council - if it is not a matter of minor amendments - already at the preparation stage will announce a brief description of the major forthcoming issues and report on the anticipated changes to be made. The council shall furthermore conduct an information campaign to encourage public debate for the submission of ideas and proposals. Finland has also increased the possibilities of participation by prescribing two opportunities of public inspection, the first one at the preparation stage and the second one when the draft is presented. Portugal has furthermore inscribed a right to public access at any stage of the process. But usually, the degree of citizen participation much depends on the local authority itself. It is seldom regulated if both early and continuous contacts with the citizens will be established and if efforts to increase their commitment will be made by means of leaflets, public meetings, information in local newspapers, etc.

The timing and degree of representations and control by other authorities also differ. Most common is that a first and usually rather informal consultation takes place at an early stage and that later the provisional draft is submitted to the authorities at the same time as the public display. But in the UK the draft of the local plan must first be sent to the county council, which has to check that the draft agrees with plans and guidelines at a higher level. The district council may then approve the plan provisionally and after that leave it to public inspection and maybe public hearing before a final adoption. Also France has prescriptions that the draft shall be submitted for approval to relevant public authorities, committees and organisations before being finalised, published and open for inspection. Even if no formal control takes place before the public display, it seems usual that the planning team seeks advice and takes view-points from not only authorities and organisations at the same level but also have contacts with authorities at a higher level before the draft is publicly displayed.

Most countries give authorities at a higher level a certain degree of control of the structural plan after the final approval by the local authority. The plan must thus always be submitted to authorities at a higher level. Sometimes it must be formally approved

by a specific higher authority as regional council, prefect or other state authority. In France the prefect thus has to agree to the plan before it is put into practice. A sanctioning by a higher authority is also as a rule needed in Norway, Finland, Denmark, Germany, Belgium, Luxembourg, Spain, Portugal and Italy. This higher authority has sometime the right to change the plan, sometimes only to approve or reject. In the Netherlands the plan must be announced to the provincial council and the regional inspector of the national spatial planning agency. They will not approve or reject the plan but their comments must be taken into account, when the municipality goes further in detailed planning. In Sweden the structural local plan must be submitted to the State county administration during the public display. This can give its viewpoints concerning legality and suitability of the plan, but it has no power to confirm or delete the final approval by the municipal council. In UK there is a wide discretion concerning all development plans for the Secretary of State to intervene and call in the plan for central decision or direct modifications.

All citizens have the right to make written representations in connection with the public display of the plan. Sometimes - as in Ireland and the Netherlands - they even have the right to present their objections orally to the deciding authority. The right to go further and appeal against a final approval differs. It commonly exists but it may - as in Sweden, Norway and Denmark - only be possible on formal grounds because of faults in the proceedings, etc. or it may also be allowed because of objections against the plan itself. In some countries a right of appeal is granted citizens in general within the area while elsewhere - like in Sweden - it is only allowed if the person in question can prove that he himself is injured by the plan. Mostly the appeals are handled by administrative authorities and courts. In Germany as well as in Spain both administrative and judicial appeals are possible, which sometimes may lead to a considerable timelag before the plan can come into effect.

The initiative and responsibility concerning the strategic and long-term plan of the whole community always lie with the local authority. In case of a *local detail plan* the conditions may change. A detail plan is as a rule drawn up when a more immediate exploitation is expected for an area, often as a part of a total project plan. A close participation between the public authorities and the landowners/developers is then natural.

In case there is only one or a few big developers it is of common occurrence that initiative as well as much of the detailed planning and also much of the costs for local infrastructure are taken over by the developers. As a rule, the plan is then worked out in close cooperation and negotiation between local authority and developers. The situation may still be a bit different in different countries. In the UK the public planning usually stops with the local strategic plan, while the detailed exploitation plan normally is provided by the developer and has to be approved by the district council in connection with planning permission. In France the actual situation is often similar even if conditions change. On the other hand countries like the Netherlands and Sweden have earlier left to the local authority itself to initiate and provide detail plans - often on land bought by the public beforehand - and to decide when, where and how development especially for building purposes should take place. In later years, however, the private sector has been given more space also in these countries. The other countries normally take more of a middle position, giving local authorities the main role at 'social housing' but mostly convey other development as well as part of the planning to the private sector. In areas with fragmented ownership and many landowners involved in each development, the public naturally assumes most responsibilities for even the detailed planning.

Irrespective of the situation and irrespective of the degree of private participation the statutory proceeding is essentially the same. The formal initiative comes from the local authority (except in the UK) even if pressure from the private sector often lies behind (in some countries like the Netherlands and Sweden the central or regional government may take the initiative if vital national interests so demand). Before the actual planning process starts there is usually a programming phase. Contacts are taken with different authorities and organisations and more and more also the general public, especially the main developers and property owners, has been involved in the establishing of the plan program. Already at this stage an environment impact assessment may take place. An EU directive establishes that projects which are likely to affect the environment, natural resources or the community significantly must be subject to a such assessment including public consultation before they can be initiated. All the countries concerned have included rules concerning EIA in their legal framework, sometimes in separate Acts, sometimes also integrated in the planning legislation. The authority may then decide to start a planning proceeding, provides itself or by aid of developers with a draft, announces it publicly and leaves it for inspection by other authorities, organisations and individuals. It then approves it, maybe after some alterations in which case a second display may be needed. Mostly, the final detail plan must be sent to a higher authority, which sometimes has to approve it formally, sometimes only has the opportunity to delete, if it is contrary to higher level planning and guidance. In Finland, no approval from a higher authority is needed if the detail plan agrees with a master plan, which earlier has been accepted at a higher level. If approval is denied, it is in most countries up to the local authority to decide if a new adapted plan will be produced or not, but in the Netherlands the municipal council is obliged to produce such a plan within one year. Normally, the statutory formal processing and adopting of rules for detail plans are similar to the rules for local structure plans, but in reality involvement and participation from the private sector is greater. Appeals are in most cases possible, mostly to higher level authorities and administrative courts (in Norway directly to the Ministry) but sometimes also to ordinary courts, the last alternative is mostly the case when the complains have reference to formal faults in the process. In Germany it is thus possible to lodge both administrative and judicial appeals also concerning *Bebaungsplan*.

More detailed information concerning possibilities for citizens to participate in the main plan making process and appeals against plans is provided in table 5 (from the summary report concerning spatial planning within the EU).

The same rules are usually applicable concerning appeals for both the local structure plan and the local detail plan, but in some cases there are differences. In Norway and Sweden for example appeals against a structure plan are possible only concerning the formal process, while appeals against a detail plan may also be based on the plan content as such. In Denmark only appeals against the formal process are allowed also with regard to the detail plan. In England appeals against local plans have also to be based on formal grounds. Most common among the countries is, however, that an injured organisation or individual may complain also against the plan as such.

Renewals of detail plans follow normally the same process as the establishing of the first plan. But in the case of moderate modifications which are not contrary to the purpose of the original plan, most countries offer possibilities of simplifications. Often the modified plan can be processed and approved by the municipal executive or a special committee instead of the municipal council at the same time as the whole process is simplified in different respects. In some countries there are also opportunities

for higher authorities to take planning initiatives and apply simplified methods to projects of priority from a public view-point.

4.3 Legal status

Planning laws and decrees as well as some government-guiding directives are binding on spatial planning in all countries. The same may be true for additional by-laws and directions provided by authorities at a lower level.

Table 5. Opportunities for public involvement in the main plan making process at the local level

	Consultation and participation		The use of hearings and inquiries	Opportunity for challenge after the plan is formally adopted/approved	Comments and other related mechanisms
	Before proposals are confirmed	After publication of planning authority's firm proposals			
<i>Osterreich Raumliches Entwicklungskonzept Flachentwicklungskonzept Bebauungsplan</i>	Public must be informed of intention to prepare plan and possibility of consultation	Plan is made available for public inspection and all citizens have a right to make statements on the plan			In the case of environmental assessment where citizens can make statements in the procedure and groups of 200+ or more may nominate a representative to take part in the proceedings.
<i>Belgique-Belgie Plan communal de développement (B); Aldermenplan van aarleg (F) Schema de structure communal (W)</i>	Some plans are subject to pre-draft consultation with public	Consultation with public on all draft plans for 30 days — citizens have a right to file objections		On legal (including procedural) grounds (<i>Conseil d'Etat/Raad van State</i>)	Interest groups are represented in various advisory committees at the regional and municipal level which may act as intermediaries between the plan authorities and the public.
<i>Danmark Kommuneplaner</i>	The public are informed of the major issues and are encouraged to submit ideas and proposals. The 'pre-consultation' stage must last a minimum of eight weeks	Consultation for eight weeks with the public, opportunity to object. Further consultation is undertaken if the plan is modified significantly.		Challenge is possible on legal or procedural grounds only	Lack of opportunity to appeal is argued because extensive early consultation is generally thought adequate
<i>Suomi-Finland Asemakaava Rakennuskaava Yleiskaava</i>	Consultation on first draft for three weeks with right to object	Further consultation and right to object when plan goes to council for approval	Hearings after consultation on first draft and second hearing after decision on plan by municipal board.	Public can appeal to state authorities and if necessary to the <i>Korkein hallinto-oikeus</i> (supreme administrative court).	Experimental projects are underway to try to encourage wider participation amongst groups who do not normally participate in plan making.
<i>France Plan d'occupation des sols</i>		Consultation for one month on draft after approval by public bodies and communes, with opportunities to object.	Detailed plans are usually subject to a public inquiry.	Those having an interest may appeal to the administrative court.	
<i>Deutschland Flachennutzungsplan and Bauungsplan</i>	Public are informed and may contribute to setting aims for plan.	Consultation for one month when objections can be made, reduced to two weeks for plans to meet 'urgent housing need'	Public hearings are held for major projects such as motorways.	Those whose rights are affected by the plan can appeal to the courts	Interest groups are represented on advisory boards which participate in the preparation of regional level plans.
<i>Eilas Palaomiki meleti</i>		Consultation for 15 days and opportunity to object.		Opportunity to challenge plans at the Council of State.	Note plans are prepared by central government ministry who consult the local authorities.
<i>Ireland-Éire Development plan</i>	Public may be involved in preparation but this is not mandatory. Initial consultation for three months on first draft plan, when public may lodge objections and representations.	Consultation of one month on revised draft, with the opportunity to object.	Local property tax payers may request a hearing of their objection	The Development Plan can be legally challenged by judicial review.	

	Consultation and participation		The use of hearings and inquiries	Opportunity for challenge after the plan is formally adopted/approved	Comments and other related mechanisms
	Before proposals are confirmed	After publication of planning authority's firm proposals			
Italia <i>Piano regolatore generale</i>		Consultation for 30 days when public can object.			The <i>consigli di quartiere</i> (elected neighbourhood authorities) are an important avenue of consultation.
Luxembourg <i>Projet d'aménagement communal</i>	Informal discussions.	Consultation for 30 days and opportunity to object.		Observations can be addressed to central government within three months of the advertisement of approved plan.	Local communal councils represent local interests in the plan process. Any physical or corporate entity can represent their own interest. Public information meetings are held.
Nederland <i>Bestemmingsplan</i>	Public may be informed but this is not mandatory.	Consultation for four weeks on draft plan and opportunity to object.	Objectors may request a hearing to explain their objection in person to the municipality.	After the municipality has adopted the plan it is submitted to provincial executive and displayed for four weeks during which limited objections can be made. After approval it is displayed for a further four weeks when appeals to the Council of State are possible on matters originally subject to objection.	At the time of submission to province for approval, new objections may only be made to changes.
Portugal <i>Piano director municipal</i>		Consultation for 30 days on draft plan, and opportunity to object.	No inquiries are held.		The public have a 'right of access' to the process at any stage of plan preparation, although this is rarely exercised.
España <i>Plan general</i>	Public is involved but not mandatory. Initial consultation for 30 days on first draft plan 'calling for suggestions' for changes.	Consultation for one month, and opportunity to object. A second period of consultation is held if major changes are made.		Challenge is possible on procedural grounds.	Consultation mandatory on EIA projects at three stages in the process. Public information for main infrastructure projects.
Sverige <i>Oversiktsplan, detaljplan</i>	Wide public consultation on initial proposals is the norm.	Consultation for three or 12 weeks depending on type of plan.		Challenge is possible on procedural grounds only. Challenge is possible for the <i>detaljplan</i> .	
United Kingdom <i>Local plan & Unitary Development Plan</i>	Public may be informed and consulted prior to proposals coming forward. There is a mandatory publicity and consultation stage usually based on first draft proposals.	Consultation for six weeks on the plan and opportunity to object. A further period of six weeks for objections if major changes are made after the inquiry.	An inquiry is held unless all objectors agree that it is not needed.	Challenge is possible on procedural grounds.	The inquiry is held before an independent official but the final decision rests with the plan-making authority.

Also many processual and implementation rules from specialised public agencies may have the same effect. However, most authorities and agencies also give frames and guidelines which not are legally binding but can mainly be regarded as recommendations concerning spatial planning. Some of them may be binding on those working within the authority or agency but will not bind other public servants, organisations or individuals.

With regard to the different levels of planning a general trend is that plans at a higher level will be less legally binding than plans at a lower level. This is natural, because plans at higher level are mostly of a strategic nature, less detailed and therefore offer wider frames than plans at a lower level, but also because their processing and final design offer less possibilities of active participation, objections and appeals to lower authorities and individuals.

Beside this general trend, the degree of legal status varies considerably between the countries. We can take the UK and Denmark as examples. In the UK neither a comprehensive structure plan nor a more detailed local plan is legally binding or a guarantee of development rights. In the control process applications to develop a property are considered 'on their merits' but of course also in the light of plans and policy guidance. In the Danish planning system on the other hand there exists a strong hierarchical linkage, where the lower levels normally shall be in agreement with the higher levels. National planning directives are thus binding on county and municipal authorities and an adopted region plan has a binding effect on the planning at local level. A detailed local plan may not contradict the strategic municipal plan. If a development is to be permitted which is not in line with this plan, the plan has to be changed in a supplementary process. Also in Italy the internal binding is strong and a substantial deviation in a lower level plan needs a change in the higher level plan, something which is often a long process in Italy.

The legal status of plans and official guidelines in the other countries lie somewhat between. Ireland is close to the UK, while Belgium is close to Denmark with regard to the formal rules. In Belgium, however, a clear distinction is made between those parts of the plans which shall be binding and those which are only indicative or informative. Even in Luxembourg and Portugal regional plans are binding on the authorities and agents at a lower level, which might be said also concerning specific aims contained in the German region plans. In the Netherlands the regional plan is indicative. But if the province wants to depart from an 'essential decision' it must first revise the regional plan. In the other countries regional plans are legally more of an indicative nature, although there ought to be good reasons if a lower authority decides to deviate considerably from them.

With regard to the local structure plan the situation is a bit different. In Sweden it is only indicative but should normally be followed by the municipal authorities, especially concerning development objects of a national interest. We have a similar situation in the Netherlands, while in Germany an approved *Flächennutzungsplan* must govern the more detailed *Bebauungsplan*, if not, essential deviations must be approved by a higher authority. The same is the case in Finland with regard to the legal power of a master plan. In the other countries the municipal structure plan might be considered as binding on the public but normally not on individuals. If some kind of detail plan is approved by the local authority, it will in all countries be binding on public authorities, agents, organisations as well as individuals if not altered according to legal rules of procedure.

The expression 'binding' is however interpreted a bit differently in different countries. In some there is a rather considerable possibility to deviate from a plan, if the deviation still is in line with the aims of the plan and does not complicate further development. If it is the matter of a small deviation, such one is almost always possible if the conditions above are fulfilled. A few countries seem to have somewhat wider borders. The power to make such deviations is sometimes decentralised to the municipal executive, sometimes kept for the municipal council. In Netherlands it can be stated in the detail plan itself, how much the municipal executive is allowed to deviate from the plan. Sometimes an approval by a higher authority is needed as the case is for example in Portugal.

Possibilities to deviate increase of course the flexibility of the systems. Another method is to simplify the planning process in cases where the plan has to be changed but without giving up the earlier principles and aims. The consultations and

submissions may be limited just as the public display, or the approval power may be decentralised. But a condition is always that neighbours will be informed and offered possibilities to make reservations. Countries like Sweden, Spain and Italy have regulations of this kind.

The legal importance of approved plans at different levels is not only that they influence development rights and because of that also the value of the land. They may also have other legal implications such as entitling the municipality to take over public streets and places according to the plans or the public to expropriate land or to buy land by exercising preemptive rights etc. But we will not go into these aspects here.

4.4 Other sectoral planning

Physical planning is one type of sectoral planning, concentrated on spatial development and land use. With regard to these the total planning system may be rather comprehensive and cover a wide field of basic problems in the society. We have many other types of planning of spatial importance, which however mainly are concentrated on other subjects or on limited sectors of land use, etc. They will not be dealt with here but a few ones of special spatial importance may be mentioned.

Planning to stimulate *economic* development thus exists in all countries. It has several objectives. One is to improve the conditions for a general increase of the national economy. Another is to concentrate on specific areas, which because of different reasons cannot give their inhabitants an equal level of living as in the country as a whole. The EU regional funds are thus used in order to

- support development in less developed regions;
- restructure regions with regressive industries;
- fight long-term unemployment
- facilitate young people's entrance to the labour market;
- restructure agriculture and forestry;
- stimulate development in certain, particularly sparsely populated, rural areas.

If a region fulfils certain criteria, support may be given to development projects, provided that programmes of a strategic and long-term nature are drawn up and accepted by the EU Commission as well as the national government. Since the EU support is of great magnitude and essential for most of the countries much of the economic planning has been aimed at giving support to regions which fulfil these criteria such as old mining districts in Wales, mountain districts in France, low-income rural areas in Spain and Portugal, sparsely populated areas in northern Sweden and Finland, etc. The goal may also be to create a net of centres and service places capable of giving all inhabitants an acceptable degree of service irrespective of where they live. The objectives can be expressed as establishing of a hierarchy of cities, towns and other urban places with different service functions - as is often underlined as a planning goal in for example Germany - or it may be more modestly implemented in practice at the establishment of big hospitals and other public institutions as is the case in most other countries. Such territorially directed economic planning has often physical component of considerable magnitude and can therefore be closely connected to the spatial planning system. So for example, the French concept of *aménagement du territoire* often includes more of regional and local economic development than of strictly physical development. But at the same time localisation and territorial organisation of

this development are important components. Economical and territorial planning are thus integrated. It is established at different levels. In *Schéma national d'aménagement et développement du territoire* a national plan and strategy is created to stimulate development of different regions and areas of France, which is then concretized in regional plans and further implemented at a local level. Especially at national and regional level a close connection between economic and spatial planning is of common occurrence also in most of the other countries even if they formally are separated.

Generally it might be said that planning of mainly economical character is less law-dependent than the physical planning systems. It may be based on decrees and guidelines of different kinds. But the content, process and legal status are as a rule not very clearly specified. The need of consultation, public information and participation may be as great but the ways to do it are seldom strictly fixed. It is more a matter of establishing suitable action programs than to follow legal routines. The responsibility lies mainly on State or regional agencies belonging to the common administration such as province and regional councils and executives, sometimes also on established special organisations such as *Glesbygdsverket* in Sweden to support sparsely inhabited areas and the three Irish agencies *Forfas*, *Forbairt* and *IDA* with a network of regional offices to promote development of overseas and domestic enterprise/industry. Sometimes - as in the UK - special organisations within the private sector are engaged. Co-operation and participation between state authorities/organisations and the private sector in stimulating economic development by common efforts are of usual occurrence.

The means of implementation are many. Sometimes they are of legal nature. England for example has practised legal prohibitions against great industrial establishment in certain already well developed regions in order to spread industry to regions with greater needs. But mainly the means are usually of economic nature as grants and loans to enterprises, tax reductions or contracts between State, regions and municipalities concerning economic support during a specified time. They may also have a spatial dimension such as decentralisation of State departments - something tried i.a. in France and Sweden - location of public service and location support to stimulate new business and industries in specified areas. Not least infrastructure provisions have been considered important in this connection.

Infrastructural planning at different levels is of course of great spatial interest. Often it is included in a comprehensive national, regional and local planning. But the primary planning is mostly separate and the responsibility of road, railway, etc. authorities. The planning process is often rather similar to the common spatial planning process. State and regional sector offices have to work out drafts - often with more than one alternative - after consultations with affected authorities and studies of economical and environmental consequences. The proposals are so open to public review - maybe also to public meetings with affected landowners - and time is set aside for representations. The preliminary proposal is submitted to higher and parallel authorities, after which a final decision is taken by regional or national sectoral authorities.

Naturally these sector plans have to be accommodated in some way to other physical planning. Hopefully, this is done during the planning process, but sometimes this seems to be a problem. On the one hand the state and regional road etc. agencies try to reach as good economical and technical solutions as possible, on the other hand parallel sectoral authorities or local authorities may have their own ideas concerning the best solution seen from their own view-point. Because of this there need to be clear

rules as to how dissonances between sectoral and especially local authorities should be solved, since establishment of a suitable infrastructure in one way or the other is a responsibility of both. In practice this problem is far from lastingly solved. It has been underlined by Italy and several other countries that the sectoral authorities too much work independently of each other and of the regional and local authorities. Even if much of the infrastructure must be planned at the national and even a higher level, the regional authorities often seem to be most apt to bring the general physical planning to conform with the creation of the infrastructure network since such one must to a great deal be planned in detail at a regional level.

Integration problems are not least evident within the transport sector - how the network of roads, railways, airports and waterways should be planned together to get the best total. In some countries efforts are made to get national and regional integrated transport plans. Ireland for example establishes Operational programme for transport for a 6-year period and similar integrated plans at national and regional levels can be found in countries like Finland, Denmark, Germany and Italy. France has preferred to work out specific national and regional *schémas* for the different transport sectors such as the *schéma routier national*, *schéma du réseau ferroviaire*, *schéma des infrastructures aéroportuaires*, etc. This is a common system also in other countries.

National, regional and local plans may also be established for other sectors like seashore plans, landscape plans, nature reservation plans, heritage protection plans, etc. We will partly touch on them in later chapters.

4.5 Discussion

It is clear from what is accounted above that the principal structure of the spatial planning systems displays great similarities between the different countries. In all of them (except Belgium) the central government has in co-operation with the parliament a decisive influence on the determining of statutory principles, processes and legal status of the planning instruments at different levels. In some countries national plans are included in the system. But they seldom go into detail and are more concentrated on general overviews, visions, alternative scenarios and on some action headlines concerning regional growth stimulation, main urban development, main infrastructural network and nature preservation. The central government may also play a role concerning approval of plans at lower levels. Only in few countries does it take a more active part in organising actual physical planning.

At the regional, provincial or county level some kind of planning with a spatial component is always afforded. But it may differ much in content. In Sweden for example it is mainly a question of coordinating investments in physical infrastructure, regional support etc. and of checking that planning at lower levels does not hurt vital national interests. But comprehensive plans are there only worked out in a few areas around the biggest cities. In other countries - like France - the economic and investment component is as a rule predominant while in some countries - like Denmark, Finland and Italy - land use and zoning are given much attention. The character of the responsible institution may also differ. While it thus is an elected county board in Denmark it is a regionally decentralised service of the planning ministry in Portugal.

At the local level all countries (with some exception for Finland) have furthermore a statutory demand that a structure plan should be established for the total area of the local authority (even if this has not yet been fulfilled in practice everywhere). It will have a considerable spatial content, often resulting in maps showing main infra-

structure with zoning and prescription of land uses for all the areas. The establishment of the plan is always a responsibility of the local authority, even if higher authorities may be involved for support and consultancy and have the right of final approval or, anyhow, power to delete the plan if it violates specified common interests.

In all countries there are also possibilities to go further in detailed planning. To establish such plans may be up to the landowner/developer - as in the UK - but still subject to the control of the authority, or it may still be the formal responsibility of the local authority - as for example in Sweden, the Netherlands and most other countries. But often the main work to produce a draft is done by the developers, only a few of these being involved.

The degree of public participation differs not only in detail planning but also else. But as described above the public plan process always includes an opportunity for other affected authorities and organisations as well as individuals to scrutinize a plan draft and make reservations. For the landowners this is especially important at the local level, where sometimes information and discussions include formal public hearings. Right to appeal may be only on formal grounds or comprise also objections against the plan itself and it may be general or only reserved for those injured.

As described above the planning systems also differ concerning the binding effects of plans at different levels. While in the UK all spatial plans have only an indicative status, they are in Denmark binding at all levels, and no considerable deviation from a plan is possible, if not both the plan in question and the plan at a higher level are adapted to the deviation. In most other countries, plans at higher levels are mainly indicative while a detailed local plan always is binding on all parties. Concerning the local structure plan, the situation differs.

After having underlined some of the main differences which exist between systems in different countries we will discuss some pros and cons concerning some of these characteristics, i.e. the degrees of binding, flexibility, plan adaptability and public participation at plan production.

Even if there are obvious similarities between the countries in the case of the legal status and degree of binding of plans at different levels, there are also obvious deviations. This indicates that the solution is not self-evident, that a strong legal status and high degree of binding may have both advantages and drawbacks.

Some advantages of a high degree of binding are obvious:

- it gives a plan a greater steering effect;
- because of that the planning, the authority will feel more assured that the objectives and intentions of the plan and the considered national and regional interests will be regarded even at lower levels of the planning hierarchy;
- this will also make it possible to delegate final approval and control of development from higher to lower authorities and from authority councils to executives and committees and in this way simplify the whole process;
- if plans give clear and binding guidance, the further handling of development matters will be simplified and less hazardous and there will be less space and frequency for time-consuming appeals or for private lobbying to local authorities;
- it will then give landowners/developers, neighbours, banks and potential buyers a higher degree of security.

Not least the last point is vital with a growing tendency of commercialisation in the society.

On the other hand plans which are binding not only concerning objections and general direction of development but also more strictly in detail may have several drawbacks:

- from the planning at a higher level until the local implementation a considerable time may elapse during which several earlier presuppositions may have changed. If not the superior plan is changed but still is binding, the possibilities of suitable adaptation are more limited. The development may either not be optimal or have to wait for a modification of the superior plan;
- comprehensive planning at national, regional or county level will be cumbersome and expensive if it embraces much of binding details. The latter are better studied and fixed at lower levels with better local knowledge and less area to cover. Partly, this is true also with regard to structure plan at local level;
- planning at higher level has as a rule difficulties to get active participation from local authorities, organisations and landowners. It may then be criticized that a plan which is established without having been submitted to their real examination shall be strictly binding on them;
- there has since long been a trend towards decentralisation of more administrative power for lower authorities, the municipalities in particular. According to this, higher authorities may leave local matters of limited national or regional importance as much as possible to local authorities. In accordance with this, plans at higher level should only bind things which are important in a wider connection.

The relative importance of these pros and cons is different at different plan levels. Generally speaking, the advantages of binding plans are stronger at the lower plan levels. Most countries therefore have systems where plans at higher levels shall only contain more general guidelines concerning development and the co-ordination and localisation of main infrastructure and in these respects be more or less steering but not binding in detail on authorities at a lower level. The co-ordination and localization of infrastructure like roads and railways of national or regional importance may be binding but not in detail, which shall be left to subsequent working plans. Protected land use may also be illustrated at this level. But otherwise binding land-use directives should be left to plans at local levels.

A few countries will go further and give more consideration to the motives for binding land use already at higher levels. In Denmark there is thus a clear and binding distinction between urban, recreational and rural zones already at national and regional level, and development against this zoning is prohibited or subject to special permission. Partly, this may be seen as an expression of an aspiration to protect most of the natural areas in a small and intensively used land area like Denmark, which relies heavily on its agricultural production and where also forest areas are rather limited. Also a country like Luxembourg gives much legal strength also to spatial regulations at regional level.

But there is always a risk that too much of detailed binding in plans at higher levels will hamper development. Italy is an example. Its main planning legislation has been of a rather rigid nature with strict binding of also detailed land use already at regional levels and with a rather complicated system for plan renewals. As a result, the plan revisions have not been able to keep in step with the actual development. A great deal of this has therefore been left unregulated, outside the plan prescriptions.

The case may demonstrate that *if* a country finds it necessary to regulate land use with binding power already at regional etc. level, then it ought also to find ways to revise a strategic plan in an efficient way, for example as in Denmark. If there a plan at a lower level must deviate from a higher level plan, a special supplement to this plan may be decided in a process which is co-ordinated with the production of the lower level plan

Concerning the local structure plans the drawbacks of rather strict binding are considerably less. Most countries have made this type of plans binding on the local authorities as well as the landowners. In some countries, however, only certain elements in the plans are binding and other only indicative while in other countries - like Germany - the plan is binding on the local authorities but not on the landowners. Binding is especially natural when - as in France and several other countries - development rights are established already by the community-covering plan. When a detail plan is needed for a major development the situation is somewhat different. So for example the municipal strategic plan is mainly indicative in the Netherlands, in the UK and in Sweden. The UK is often referred to as a country which differs from other European countries in the respect that the public spatial planning is only indicative. But the difference should not be exaggerated. The district-wide local plan in the UK is comparable with the municipal-wide local plan in for example Sweden, which as said also is only indicative. Development rights in the UK need a planning permit, bound to a private development plan. Major development in Sweden as in many other European countries is bound to a public detail plan. So the difference is more connected to who is responsible for the last and binding detail plan than to binding-indicative as such.

Most West European countries have thus found it advantageous to make the strategic plans at national, regional and county level non-binding on the landowner/developer or only binding in certain respects, while the final plans for limited urban or development areas are binding. It may then be a problem to make room for needed flexibility. There will always be a timespan between local approval of plans and the actual implementation. Often the plans have to be finally confirmed by higher authorities, sometimes appeals are raised, often implementation will be delayed by other reasons, not least in the case when the planned area embraces many landowners. When a building project is worked out in detail it may be found that certain changes compared with the plan would be wanted.

An acceptable degree of flexibility is an important feature of a planning system. If the system is too rigid it will hamper an optimal development, be time-consuming and inefficient to handle and sometimes cause irregular development as is seen in Italy. But it should be a basic condition that significant deviations from binding plans may only be made after due information to the public, especially neighbours, and relevant authorities, with opportunities to make reservations.

One part of a flexible system is that *revisions* of plans shall not be too difficult. Most plans will be out of date when time is passing. Modifications according to simplified proceedings may prolong the use of the plan, but sooner or later more complete renewals will as a rule be needed. Most plans - strategic or detailed - do not have a fixed duration time. There may exist recommendations that a new plan should be worked out after some fixed period but this is only for guidance. Almost always a plan will be in force until it is formally replaced by a new one or annulled (in the UK, however, the detail plan approved in connection with planning permission is only valid for five years unless otherwise stipulated)

In most cases a plan revision will cause limited problems. The proceedings are

usually the same as when a first plan is established (if it is only a plan modification a simplified proceeding is sometimes used) and as a rule the new plan is worked out in agreement between authorities, developers/landowners and neighbours. The problem arises if the development rights will be altered for someone in the changed plan and he (or his neighbours) is opposed to this.

Different ways to handle this problem exist. One is to stipulate a defined period during which the landowner has right to retain his full land value. According to the German law this must be paid to him in case of an expropriation within seven years after a *Bebaungsplan* has come into force. But after that only the value of land according to current use is paid. If further a *Bebaungsplan* is amended or annulled within the same seven years a landowner who considers himself damaged by this may claim compensation. Also in the Netherlands a landowner may claim compensation for damage caused by amending or annulling an existing plan, provided that the earlier plan is not too old. In Sweden any new or revised detail plan is given a fixed time for implementation (from five up to fifteen years). If the plan is amended or annulled within this time, a landowner has right to full compensation in case of alterations for any damage caused by this. After the implementation time has passed the plan is still valid until it is formally amended or abolished. But no compensation has to be paid in this case. This system has sometimes been criticized, as it tends to lead to short implementation periods with small planned areas every time and therefore also rather limited possibilities for landowners to act and participate in a broader connection, especially since in Sweden they have no right of appeal against the municipality-wide structure plan on other grounds than illegal proceedings. Some land values will also be very uncertain after the passing of the implementation period, since a landowner has no guarantee concerning unused development rights after the period in question, something which the small landowner is not always aware of. Naturally, such uncertainty may also force the landowner to exploit unused building rights earlier than what is economically advantageous.

Compensation may sometimes also be paid for a new or revised plan because it introduces certain use restrictions. In Sweden for example compensation may be paid if the plan for specified objects or areas contains prohibition against building demolition or prescribes rules concerning maintenance of any building of a special value or vegetation conditions, etc., provided that the economic damage exceeds a certain amount.

In most of the countries, however, there are no compensation rules, neither concerning possible damage caused by a first development plan or the more usual situation that earlier development rights have been lost or diminished by amending/annulling a plan. This is a certain defect, as in the future amendments of urban or other plans will be common. If not a certain guarantee of earlier development rights exists, the land values of not quite developed property will be uncertain with all its consequences for landowners and loan-granting banks. Such guarantees may either be in the form of frames for allowable damage or right of compensation for damage or a combination of both.

With close *co-operation and participation* in the preparation of new or amended plans, especially detail plans, damage and compensation problems may be diminished. It is a general trend in all countries to increase such participation. One way is consultation at plan-making. All countries have prescriptions implying that a preliminary draft must be displayed to both authorities, important organisations and citizens before it is approved, subject to right of reservation. Some countries - like the

UK and Ireland - normally include a public hearing in the proceedings while other countries - like the Netherlands - stipulate a right for those who object to the plan to explain their objections in person. If the draft is considerably amended it must as a rule be displayed anew before adoption.

Some countries - like Germany and Sweden - have law prescriptions that before work on a draft for a new plan will start there should normally be drawn up a programme permitting the public as well as private sector to give their view-points. Besides the formally prescribed consultations there are nowadays usually running consultations during the process of draft-making. In most countries affected landowners/developers also have right to appeal, sometimes to both administrative and ordinary courts.

A reservation against these increased possibilities of participation is that the plan proceedings may be considerably prolonged and complicated and in this way hamper development. Several countries have therefore introduced simplified proceedings as an alternative when a detail plan is in near agreement with more strategic plans or is an amendment in line with the aims of an existing plan.

Another reservation is that when consultations between the local authority and some main developers go so far that a formal contract between them is at hand, there will not be much space for the small landowners or for citizens in general to make their voices heard in the following formal plan procedure. When there is only one or a few main developers within the area it is difficult to avoid this situation altogether. It is natural that in such a case the authorities and the developers negotiate concerning main land use, degree and type of development and also the sharing of infrastructure and other costs and that they even formalize their agreements in some kind of contract. Then, it is however important that enough space is left for possible amendments in connection with the formal planning process. Usually, formal and binding contracts between authorities and developers are drawn up only just before an approval of the plan in question.

Irrespective of private participation the formal planning process is still in all countries a responsibility of the authorities with some exception for the UK and Ireland, where the developers have to present detail plans in connection with application for planning permit. But - as mentioned earlier - in most countries there are possibilities for main developers to take an active part in the process by means of maps, plan drafts etc. This is especially the case in connection with development for second houses, tourist facilities etc.

Some countries also have special kinds of processes where the private sector can play a main role. In France for example *zones d'aménagement concerté (ZAC)* may be created in urban or future urban zones, within which a local authority or a public law corporation may arrange for the development and the servicing of land, but where it is of frequent occurrence that the initiative is motivated by a proposal submitted by a private developer, who also may be responsible for the funding according to a contractual agreement between the public authority and the developer. Furthermore, a subdivision permit may confer development rights, which the developer may implement by a *lotissement* process. In France it is also possible for several land owners to join in an *association foncières urbaines* with the purpose to undertake development projects on behalf of the landowners themselves but under public control. Also several other countries - like Italy, Spain and Portugal - have similar instruments where private participation, initiative and implementation can play a great role.

5. Implementation and Control

5.1 Introduction

A plan provides a programme for development, an image of the desired future. This image is to be realised by implementation.

This statement makes the impression that implementation is a less significant activity. The important decisions - how to structure the area and other main features of the development - are already taken into the plan, which expresses the chosen policy. Implementation may then appear to be merely a question of finding the resources, will and responsible agencies or people with the power to carry out what has been decided.

But this view is not longer adequate. Implementation must be regarded as an integral part of the total policy process rather than a pure "follow up". One reason is the often considerable time that elapses between the adoption of a plan and implementation measures. Much may change during the period. Another is that statutory planning is often rather superficial, in the sense that details in structures and buildings are not studied and determined sufficiently, nor is negotiation with landowner/developers or co-ordination with plans of other public sectors carried far enough. The physical plans mostly cover only certain aspects, primarily land use and the infrastructure it demands. Core areas, like social development, services and, to some extent, also the environment, are seldom regulated in detail by aid of plans, but must be safeguarded in other ways. In certain countries there is a lack of resources and power in the local authority as well as poor updating and adaptation to changes. The result may be that the intended development does not occur or does so more or less irrespective of the plan. So implementation is not just a fulfilment according to the plan - 'blue-print' but has an important role of its own. Much depends not only on the legal status of the plans but also on the powers and the means of implementation.

In this chapter we will mainly concentrate on these means concerning urban development even if at the end we also will take up some rural aspects. It is obvious that much is dependent on market forces and activities within the private sector. After all, implementation should mainly aim at covering needs which to a great deal are determined by population, economy and market development. But this is not the place to analyse these dependencies. Instead, we will mainly discuss what possibilities the public authorities in the studied countries may have to implement their adopted spatial plans and policies.

There are two main aspects in this connection. One is the timing. *When* ought a certain development take place. Mainly it should be determined by the needs for example of new housing. But it is normally not acceptable that needed development is spread over a large area, as this will increase the costs of infrastructure, etc. A planned and successive implementation area by area is mostly to prefer, i.e. the public should have means to steer or stimulate implementation in the right time at the right place. The other aspect is *how*. The adopted plan may give indications, but as said above it gives mostly only a frame. There is need of control also concerning the more detailed design.

In the following we will take up a treatment of, firstly, what means the studied

countries use to activate implementation and attain the wanted timing, secondly, what the means are for a more detailed control.

The main group of means used by the public is

- land acquisition
- legal prescriptions and contracts
- own activities, especially concerning infrastructure
- stimulation means
- control by permits

Some of these include also a possibility for control in detailed. Otherwise, the main control means are permits, prescriptions and inspections.

At the national level it is largely a question of creating preconditions for action, partly by designing supportive legislation and partly by creating a structure of strong institutions that can manage the legal tools and act efficiently. In addition, the structure of built-up areas will be affected by infrastructural investments and by the location of significant institutions, like universities. Even at the regional level it is possible to affect implementation by the approach adopted towards traffic and infrastructure, the location of hospitals, etc. In some countries like Italy both the national and regional government may sometimes take an active part to implement development projects by means of expropriation of land. But still, the implementation activities are mainly the responsibility of the local authorities with the reservation that in some countries these are so weak or the municipalities often so small that responsibility falls mainly on the regional authorities or a group of municipalities. In the following we will therefore mainly study the questions from a local view-point.

5.2 Public land acquisition

If the public owns a great part of the developable land it has of course good possibilities to steer the timing of the development as well as to control its content in detail. There may also be other motives for public land acquisition. One is that the local authorities are supposed to be in a better position to assess where exploitation ought to occur and thereby are able to keep the level of costs down through strategic acquisitions, perhaps 5-10 years ahead. 'Land banks' are built up. The problem of an "undeserved" rise in property values can be limited in this way and the profits that would otherwise have accrued, can instead be used to keep down the costs of housing production. Public acquisition of land has often been regarded as the most effective means of combating land speculation.

Another motive is that the authorities after planning the land can distribute it in a suitable way among different builders and thereby promote competition and multiplicity in the production of buildings. At the same time it gives the local authority a strong position when the conditions of development will be specified in the contract between the public and the developer. The production can further be placed within the total housing program of the municipality, development can start when the time is ripe for it and the establishment of infrastructure be made successively and in pace with the needs of housing.

Most of the countries in question therefore use this means to a certain degree. A

few have made it a normal routine. In the Netherlands nearly all urban development has thus occurred on land owned by the municipalities, which has been acquired earlier or in connection with the development, usually on a voluntary basis, even if expropriation is used sometimes. Through the dominant position of the local authorities as developers, it has been possible to keep land prices at a level that does not much exceed the value of ongoing land use. Plans and common facilities are provided through the local councils, which subsequently transfer the land to interested entrepreneurs.

In Sweden, a similar model has functioned, even if the municipalities have not had quite the same dominating position there. But it has been seen as their responsibility to secure that needed housing for their population is established, even if this goal not has been reached in all municipalities. Most of them therefore have acquired considerable land-banks. The municipalities have also taken over a great part of the actual building of dwellings for renting via municipally-owned companies or in close collaboration with co-operative enterprises. An actual trend both in the Netherlands and in Sweden, however, is to give more space to the private market, both concerning land acquisition, development of the land and housing. Spain is another country with an active land acquisition program. The land law thus obliges local authorities of each provincial capital and local authorities with more than 50 000 inhabitants to allocate a certain part of the budget to the formation of municipal land banks.

In the other West European countries land acquisition by local authorities is less pronounced. It may differ by time. In Denmark many local authorities had a policy of land banking during the 1960s and 1970s, but this has diminished much. The policy may also vary much with the size of a municipality. In Finland as in several other countries the larger towns and cities are more active concerning land acquisition and steering of development, while in the small municipalities this is more or less determined by the private market. It may also differ depending on objective. 'Social' or low-cost housing is thus a priority policy area in almost all of the West European countries. Part of this policy is public acquiring and developing of suitable land, which then is distributed to municipal, semi-public or private companies for housing, often at a subsidized price and with a certain loan and cost support. Governmental or semi-governmental organizations can also function in this context, like the Urban Development Corporations in Great Britain or the National Housing Institute in Portugal.

In the first place land banks are built up by means of voluntary purchases, but all the countries concerned also offer possibilities of expropriation, in most cases also of pre-emption. Thus in the Netherlands, the land-owners in specified areas have to offer their land in the first place to the municipality for sale at current market price, while in countries like Germany, Sweden and France the municipality has the right to 'step into the buyer's shoes'. The instruments may be used within a wide area. In all the Western countries the local authorities have the right to redeem land that has been set aside for public purposes in an adopted plan. In general, it is possible to expropriate land also for other purposes in the process of urbanization. Sometimes - as in Sweden - both expropriation and preemption rights may generally be used for land which is needed for future urbanisation. There may also be a particular right under special circumstances, for instance when no development has occurred despite the passing of a predetermined period of time since the adoption of the plan, or when a planned consolidation of plots has not taken place. In connection with the renovation of a sector of a town, there may

be additional opportunities.

In most countries, however, these instruments are looked upon as a last resort to be used when a voluntary agreement cannot be reached. But a country like Italy has also a special instrument for mainly social housing, *Piano per l'Edilizia Economica e Popolare*, where the implementation takes place by previous expropriation of all the land involved, which is then sold or leased to operators within the public or private sector. In some other countries expropriation comes to a frequent use within special delimited areas for more immediate and concentrated actions such as the *ZAC* areas in France and the *Städtebauliche Entwicklungsbereiche* in Germany.

5.3 Legal prescriptions, contracts and adaptation instruments

The public often has a strong interest in the implementation of a planned area not being delayed too much but follows a rational scheme for enlarging the needed infrastructure, or to avoid that the landowners wait because of speculations in increased land values. Sometimes the timing of the development is made as a prescription in the plan itself or in some special act after the plan has been adopted. Some examples will be given.

In Finland the municipality can issue a building request, if at least half of the permitted gross floor area remains undeveloped when a town plan has been in force for two years or if the plot has not been developed according to the plan. If the land remains undeveloped three years after the building request has been issued, the municipality can expropriate it and sell or lease it to some other developer.

In Spain, one of the documents included in the general municipal plan may be an action program - *Programa de Actuación Urbanística* - which programmes the operations to be carried out in the first two four-year periods of the life of the plan (this time-plan should be revised every four years). If the owners of the affected land do not comply with the specified time conditions, they may be substituted in the management process, with the administration acting as a subsidiary executor. In the case of compulsory purchase because of non-compliance with the time periods, the owners may suffer a reduction in the value of their land of up to 50 % of what they would have obtained if the development had run according to the fixed time period.

In Portugal, the municipal assembly may define priority areas for urban development and thereby induce property owners to start the urbanisation process. The delimitations have a five-year time horizon and the property owners have the opportunity to participate in the process. Once the area is designated, property owners must, however, choose between taking the initiative to make land available to urban development or allowing the municipality to take the initiative after compensation payment to the owners.

In France a widespread instrument is the establishment of a planning and development zone - a *zone d'aménagement concerté* - *ZAC*. It is a zone within which a local authority may choose to intervene in order to develop or arrange for the development and servicing of land. Its implication then gives rise to a contractual agreement between the public authority and the developer. When it is a private developer, one of the aims of the contractual agreement between him and the public authority is to make him responsible for part or all of the cost relating to the necessary infrastructure.

In Germany a *Bebauungsplan* may be amended or annulled without any compensation to an owner suffering economic damage after seven years have passed.

If land after this time is expropriated only the value in current use is paid. Something similar is the situation in Sweden, where as earlier mentioned every detail plan is given an implementation time, varying between 5 and 15 years. After this time the plan may be altered or annulled without compensation, which may considerably influence its market value.

Regulations of this kind are apt to influence the timing of development of a certain area, since the landowner runs an obvious economic risk to loose much of his development rights, if he does not adapt his acting to the regulations. Something similar is the case in the UK and Ireland where a planning permission is valid for only a limited time, mostly 5 years. In this case, however, the implementation of a local plan is more difficult to influence by the authorities since planning permission normally presupposes an initiative from the developer himself.

The timing as well as other development conditions can be more directly determined by formal contracts. At a higher level it may be drawn up between the State, the region, a group of municipalities or a single municipality. In France for example, a *contrat de plan* may be erected between the State and a region and is used by the State as a means to implement its planning and development policies and allocate appropriate funding for this purpose. Furthermore, a *programme local de l'habitat* (local housing programme) may be established within a group of municipalities. It should in principle be applied to all or parts of an agglomeration and provides at the same time a basis of a contractual agreement to be drawn up between the State and the relevant joint authority, determining the financial contribution of the State in relation to housing and land policy.

At the local level formal contracts between the public and the landowner/-developers are of great importance. They concentrate on private participation and have been more and more common in most of the West European countries in cases where only one or a few developers are involved. Before a contract can be erected a series of negotiations should take place before the plan is passed or permission is granted. Such negotiations may then result in some form of *planning or development agreement*. It normally includes both some time program and economic conditions, especially concerning the relinquishing of land for public places and how the costs of infrastructure, etc. shall be divided between the municipality or group of municipalities and the landowner/developer.

Often the contract is formally erected immediately before the authority adopts a detail plan or gives permission to the development and is in one way a condition for adoption or permission. This situation may of course be used by the authority to exert a certain pressure on the developer. Normally, however, there exists in most countries a certain tradition - stated in law or otherwise - how far the authorities can go when using demands. It is common for a large developer to relinquish all the land that is needed for facilities within the area, to perhaps cover the building costs of streets, water and sewage partly or wholly, but to only need to make a very limited contribution to the costs of main infrastructure outside the area. At the same time the authorities must be prepared not to put obstacles in the way of such development that is desirable from a public viewpoint. If the costs for the private developer are too great, there is a risk that the project will be abandoned or postponed.

In the contract situation it is naturally a task for the authorities to start negotiations. These do not merely refer to a reasonable division of the costs. Within the accepted

framework of the plan, there is often space for negotiations about the degree of exploitation, the number of storeys, the purpose and use of the buildings, etc. Specific conditions, for instance the maximum price for each plot that the developer may demand or undertakings for "social" residence, may also be included in the agreement. Such negotiations can naturally also be conducted when several developers are involved. Then it may also concern an acceptable division of building rights and sharing of the costs between them.

If the development concerns a very split-up area with many owners, the situation is somewhat different. There is of course space for ownership opinion and participation at the planning stage, but formal negotiations may be far too unwieldy. Instead, the conditions may be formulated in general terms for the whole municipality or as plan regulations for the specific plan. Usually, the affected landowners within a development area have to pay a certain tax to cover anyhow parts of the implementation costs.

When many landowners are involved, problems of another kind may arise. The structure of boundaries and buildings may be difficult to adapt to a suitable exploitation. The size of the approved building rights is also as a rule unevenly distributed among the owners. The implementation of the project will therefore in many cases need some kind of land exchange or land consolidation.

In most countries there are some regulations which facilitate compulsory redemption, land parcelling and land exchange with rights for both landowners and local authorities to take the initiative. They can as a rule always be enforced to guarantee land acquisition of streets and other land that is required for public needs. If the authorities have adopted a plot or subdivision plan, adaptation of ownership to this is normally possible.

When the existing structure is completely unsuitable for development and it is not possible except with great difficulty to consolidate by buying of land, some countries have introduced particular procedures. In an urban context they usually are called joint development or land readjustment. In certain cases the proceedings can be based on private agreements and exchanges of land. In more complex cases, however, and when there are many landowners, co-operation normally has to be facilitated by means of a formalised process. Generally speaking, this usually has the following characteristics:

- 1 it includes certain compulsory acquisition rules and therefore requires some kind of public sanction with a delimitation of the concerned area;
- 2 when a needed majority is at hand, the proprietors in the area form a temporary association to carry out the process, unless the local authority is to be responsible for the implementation;
- 3 Land exchanges, common relinquishment of land to streets and public places and equalisation of economic effects in proportion to one's land or value are important parts of the process;
- 4 The process is completed by a formal decision, after which the association is dissolved. The owners have a right of appeal.

In Germany the process is called *Umlegung*. Once a *Bebaungsplan* has been approved or is being worked on, the municipality can decide to start the procedure if it finds it needed. The whole process, including the establishing of the infrastructure, is taken

over by the municipality at the cost of the owners if so is decided. After reallocation suitable building lots are left to the previous owners, leaving the final exploitation to them. The calculated gain is distributed in relation to everyone's original area or value. Figure 5 gives an example.

In France - unlike Germany - land readjustment is mainly the responsibility of the landowners. Implementation and sharing of economic gains are in their hands. The owners may start by introducing a voluntary association. As this can function only in case of unanimity, a further step will often be to establish an authorised association, an *association foncière urbaines autorisée* (AFU). Prior to that, however, a pre-project plan must be drawn up. The prefectorial authority then arranges an exhibition and opens possibilities for objections. If two-thirds (normally) of the owners agree about the project and at the same time own two-thirds of the area and if the project follows accepted land use plans, then the prefectural authority can approve the association and give it the power to implement the project.

Also in Sweden and Finland there are legal provisions for carrying throughout specific readjustment operations, but they have so far been little used. Possibilities to adjust ownership structures to a new plan are also explicitly opened in Spain. Minor adjustments may also be made according to rules existing in most of the other countries.

5.4 Public activities concerning infrastructure, etc.

In most legal systems concerned with urban development, local or regional authorities are given the prime responsibility for facilities for public services - as schools - as well as for building and maintenance of the local network of roads, communication systems and the water and sewage systems. Exceptions from this rule may occur, particularly in those cases where the developer, under special agreements, is enjoined to be responsible for one or more of the infrastructural facilities.

This is the situation also in all the West European countries. The local authority has everywhere the primary responsibility for most of the local infrastructure within urban areas and areas which are going to be urbanized, when it is not partly taken over by electricity, telecommunication, etc. companies. It may however in some parts be delegated to the developer by agreement in cases where there are only a few developers. When it comes to developing less dense building areas, groups of the property owners concerned may also be suitable as entrepreneurs, not simply in order to construct the facilities but also to do the ongoing maintenance. Countries like France and Sweden thus have specific laws for common construction and management activities for groups of landowners. But in several other countries there are less guiding statutory rules concerning systems to co-ordinate joint inputs on the part of the landowners. An important task could therefore be to create an efficient, legally regulated procedure for the establishment of local groups of landowners, able to construct different kinds of facilities and subsequently maintain them.

Despite everything, important parts of the local infrastructure will be the responsibility of the local authorities, especially in areas with dispersed ownership and many small landowners. To the degree that such facilities are built through the local authorities, they generally have the right to demand the payment of at least some of the

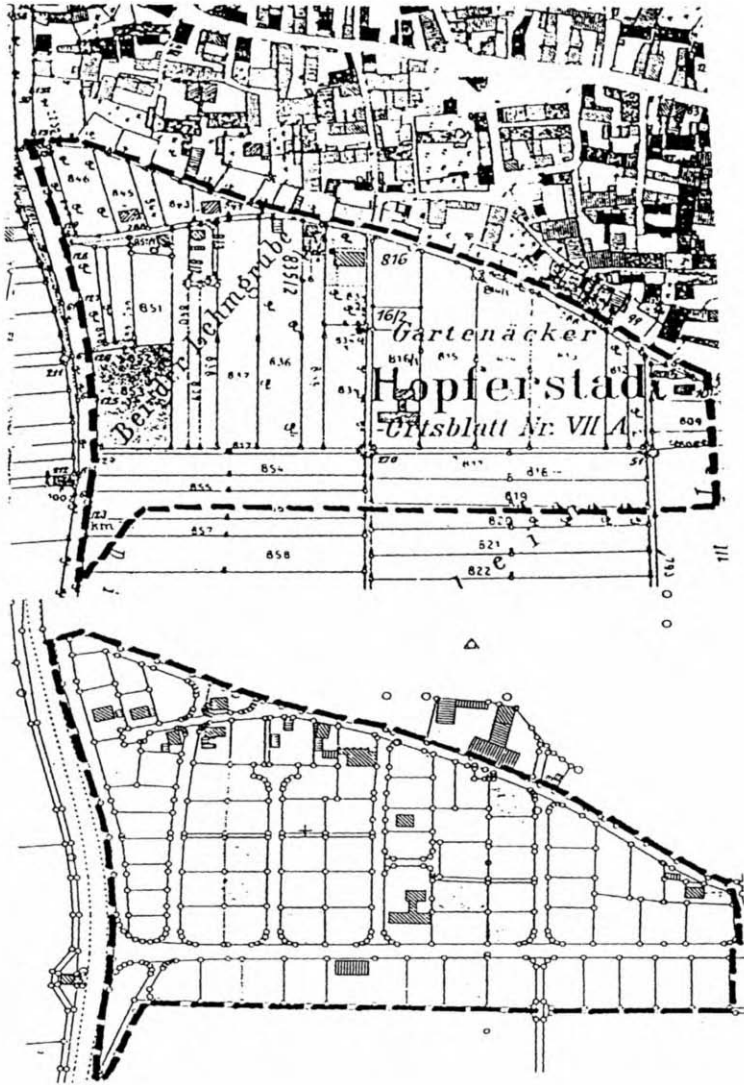


Figure 5. Example of a completed German Umlegung (Larsson 1993)

costs by levying taxes and charges. Earlier, this has far from always occurred, particularly when it comes to the costs of streets and roads. With higher technical demands, increased costs of facilities and an often fully stretched budget, the debiting of charges has become common. The rates are ordinarily not defined in law but are stated by public decisions and in consultation between landowners or their organizations and local authorities. There is as a rule a right to appeal. Often there also exist public regulations governing the maximum allowable charges, usually entailing

that the charges may at most cover the costs of the facilities defined in a particular way. The costs are generally paid in connection with the construction of the buildings.

The design of the local infrastructure is also a mode of control. Planning the blocks to be built and the system of roads and pipelines is integrated. Initiation of urban extensions and the continuation of the local net should be determined by the timetable for the exploitation as a whole. In most cases it is a condition for building permits that the planned road and sanitary net is available. This gives the local authorities a possibility to prevent that an area is exploited before the suitable time and before a gradual extension of existing infrastructure is economic. The construction of the local infrastructure is in this way also a strong means for the authorities to steer the placing and timing of new development.

5.5 Economic stimulants

Local authorities can find many ways of stimulating the start of a desired development. Often it may be a question of utilizing personal contacts between public bodies, landowners and developers. Information is important in this connection. When a plan has been adopted and become enforceable, those concerned ought to be informed, not simply of the plan but also of how the individual ought to proceed. This is particularly applicable if there are many landowners in the area, most of whom do not have previous experience as developers. If they are informed about the measures which the authorities will take in the form of successive construction of streets and other infrastructure, how suitable creation of plots can be achieved, how to apply for building permits or planning permission, documentation required, etc., the conditions for a rapid implementation of the plan are improved.

Also certain economic stimulus is available. Loans and subsidies in different forms may have a decisive influence. The general conditions for these are usually determined on a national or regional level but their application in a specific case is as a rule influenced by the local authorities.

Possibilities to use such support can be more general or more specific. Sweden is an example of a country which during the 1960s - 1990s had very liberal rules for State-guaranteed loans up to almost 100 percent of the property values for average dwellings in case of moderate land and building costs. The interest on the loans was further more generously subsidized during the first decades of a new building. This system was, however, abandoned during the 1990s with rising costs for interest subsidies and a certain fear that the support diminished the efforts to bring down production costs. The subsidizing system had a strong stimulating effect. While the housing production was high during especially 1965-75 it decreased to a very low level after the abolishment of the support system.

Most of the other countries also use some sort of housing subvention but mainly for "social" or low-cost housing. It may be as special State-guaranteed loan at a lower interest rate or direct subventions to building-costs etc. In development agreements between local authorities and developers may also be stated that a certain proportion of the building total would be in low-cost housing. Minor support may also be given to building of dwellings in general. Through economic support, the authorities can not only stimulate building as such or certain sectors of housing, but they can also give it a particular direction, for instance for higher standards, renovation, preservation of

cultural values and particularly towards social building, i.e. apply some extra control of the production.

Influence on implementation by economic means is also possible by taxes and charges. This influence tends as a rule to have a negative character in the way that the development costs increase which may moderate development activities. The UK has for example tried during different periods to introduce taxes which would anyhow transfer part of the "un-earned" increase in value by development to the State, but this policy has later been revised. It has been more realistic to put taxes and charges on the landowner to cover the implementation costs, something which is usual in most of the countries concerned.

Some taxes may, however, stimulate implementation. If, for example, a tax is calculated on the market value of a property, it may be rather high already when a development plan is approved, but before the property in question has been developed. If the tax is high enough it may then more or less force the landowner to realize this expectation value and make him develop his property according to plan.

5.6 Control by permits

For all countries an important task for the public in an implementation process is control of the actual development. While much of the means discussed above concentrate on initiative and active stimulation of implementation, the control measures have mainly a more passive function, to ensure that development follows accepted guidelines.

Public control may be a statutory requirement for many kinds of land-bound activities. It is commonly exerted as planning permission or the issuing of building permits for new buildings or structures as well as for substantial changes of existing buildings. It is sometimes also extended to demolition of buildings. Control of subdivisions plays an essential role in some countries. It may further be instituted for many other undertakings involving land, such as water projects of different kinds, removing of vegetable soil, gravel, etc., on a commercial scale or the extraction of minerals; all are typical cases which may need a formal permit from a responsible authority. Especially for large structural and industrial projects, environmental impact assessments and pollution control are often decisive in the handling of a permit. Even if a formal permit is not needed, general regulations - such as building construction regulations - may be instituted prescribing that an activity is only allowed under certain conditions. Monitoring and control may also be needed for running management. It is not only a private but also a public concern to ensure that existing land use corresponds to accepted principles of good management. To a high degree, public and private interests ought here to coincide, but nevertheless, there may be needs for public control, not only in the urban sector but also in the countryside, for example in order to see to it that agricultural land is not misused, that forest clearing and cutting is allowed only if the area is replanted if so needed, that the beauty of the landscape is not damaged, that high natural values are protected, etc. The efficiency of all such controls depends, of course, not only on statutory prescriptions but also on the public's ability to supervise and check that nothing is done contrary to the rules.

However, too rigid control can be counterproductive. One example is that they need efforts both from the authority in question as well as from the landowner who has

to apply for permit and has to support it by often rather detailed and expensive documents. In many countries there is much complaint that even in rather simple cases applications are complicated and that the consideration of them takes too long time. In recent years there has therefore been a tendency in several countries - for example in Germany and Sweden - to lessen the control claims and simplify the proceedings. Another example is that new knowledge and new considerations may successively improve a project and make it more realistic. It is then important that a certain flexibility is part of the system, that improvement possibilities are not stopped by a too rigid dependence of a plan or other prescriptions. It is thus a delicate balance between the control function and a certain amount of freedom at implementation, a balance that may be solved differently in different countries, partly dependent on the political climate in the country.

Ordinarily, *building permit* (or planning permission in the UK and Ireland) is considered as the most important part of the control system in housing and construction connections. Its significance and design are closely related to how far detailed regulation of the adopted plans and guidelines has proceeded. As discussed in previous chapters, building in urban areas is generally bound by detailed and compulsory plans in northern Europe, in Germany and the Netherlands. In UK and Ireland the approved plans are of a more general nature, while the situation varies in countries like Belgium, France, Spain and Portugal. The local and regulating plan has - except in the UK - a binding character as discussed in previous chapter. But in most countries there are some possibilities of deviations, even if according to the law they are small and maybe not contrary to the aim of the plan. Major departures need usually a modification of the plan, which in some countries can be made in a simpler way than the normal proceeding. In Ireland and Finland there are also special procedures which can be used in exceptional cases.

The main features of a building or construction, including the right to build, is as a rule already decided if there exists a detail plan. What therefore remains is in reality mainly an approval of the outside appearance and a check-up that building regulations are followed. In countries where building permits may be given without the support of a detail plan also location, density and building heights must as a rule be considered before a building permit can be issued.

In most of the *Länder* in Germany the construction of simple family homes or smaller housing units within an area covered by a detail plan does not require a building permit, only a notification to the authorities. Owner and architect must certify that the project complies with the plan. In Sweden a municipality may state simplified rules in a detail plan. A building permit may thus not be needed for supplementing buildings, smaller extension buildings or simpler leisure houses, garden cottages, etc. Other countries may have stricter rules. In Spain for example a building permit is necessary for any building works, including also lesser works as changing the kitchen or bathroom fittings. The requirements in other countries are something in between. As a rule, building permit is needed for all kinds of new buildings, essential outside changes and major interior rebuildings, often also essential change in the use of buildings. The rules concerning needs of planning permission are similar. In England exceptions from control include mainly maintenance, which does not affect the exterior of a building, while in Ireland most minor exterior works and all interior works are exempt. For buildings listed for preservation there are special rules in all countries,

sometimes also for public buildings. Generally speaking, there is a trend in many countries to lessen the need of a building permit, maybe in some cases to replace it by a notification to the authorities. But up until now, these efforts have not reached very far. Concerning building for agriculture, forestry or fishery the need of a permit is usually less.

As a rule, a permit to a larger development is given only if it is supported by a plan showing intended land use. A permit may be granted also to single houses outside any plan but mostly this possibility is restricted, less in sparsely built-up areas as is often the case in Finland, Norway and Sweden, more in densely populated countries like Germany, the Netherlands and Italy. But even in a country like Belgium a permit may be granted on a serviced plot outside a detail plan if it is located within areas which are designed as suitable building zones in the sub-regional plan and if a responsible regional planning official agrees to it. In all countries a permit is as a rule granted if the development is in accordance with the regulating plan. But not quite automatically. In most countries there are some possibilities for the local authorities to refuse a permit even if the development complies with the plan, especially in England and Ireland, where the plans are only one - but major - circumstance which should be considered. In Sweden on the other hand, if a building project follows a valid detail plan an application *must* be approved if it satisfies accepted building rules. But the decision may be postponed for two years, during which time the authorities may change the plan or expropriate the property.

An application for a building permit is in most cases directed to the executive organ of the municipality (as the mayor in France) or to a special committee within the local authority (sometimes - as in Germany - it may be a building committee for several municipalities or a county). For a full application a series of documents is required, generally including site plan, design of the buildings, construction details, etc. In countries like Germany, Sweden, France, Belgium, Spain, Portugal and Ireland there are, however, possibilities to start with simpler documentation and get a preliminary or outline permission with acceptance of the project in main but without position taken concerning details. In case of a favourable answer, the process can be continued by a full application with all documents needed.

The application is then considered against the background of existing plans and guidelines. Sometimes additional permits are needed, because of preservation, environment or other reasons and other authorities may be involved. In most countries it is the responsibility of the applicant to apply also for these permits, while sometimes it is arranged by the local authority. Usually, a building permit is not granted before these other permits have been approved.

Before the decision, affected authorities and institutions are as a rule consulted in doubtful cases. The degree of public consultation with citizens varies. In countries like Finland, Sweden, Norway and the UK also the neighbours are usually contacted in such cases, especially if the area has no detail plan, whereas other countries like Denmark, Portugal and Italy have no public consultation. In most of the countries, however, interested parties have the right to make reservations.

An application may be approved, approved with certain conditions or refused. A presupposition is always that existing building standards and constructing regulations, general or local, are fulfilled. The decision may be taken by some executive officer or committee within the local authorities and may later be ratified by the municipal

council. In some countries the decision must be examined or finally approved at a higher level, anyhow in certain cases. In France for example, an approved building permit must be sent to the prefect for check-up of its legality. Furthermore the decision must be taken, not by the mayor, but by the prefect in the absence of a local plan. In England, the Secretary of State has the opportunity to call in larger projects which do not accord with approved plans. And in Belgium an approval by the mayor and aldermen has also to be approved by a delegated official, who is representing the regional government.

The final approval has always to be published, at the site or at the municipal office, in the press or by notifications to neighbours and others influenced. There exists always a right to appeal, sometimes - as in the UK - limited to the applicant but mostly also including neighbours and other persons damaged by the project. In Denmark, Italy and Portugal an appeal can be made only on legal or procedural grounds. This is also the case in Germany, when the appeal is directed to the authorities, while the courts in handling an appeal can make a complete review of all the issues involved. In the other countries, also discretionary or technical grounds may be valid. Appeals are mostly directed to the administration at higher levels or to administrative courts, but if compensations are involved, appeals may sometimes be treated by ordinary courts. In Germany an appeal is at first directed to authorities at a higher level but may then continue by appeal to the administrative courts, which means that the total legalisation process can take a considerable time. More detailed information concerning applicants' right to appeal is given in table 5 (from the EU compendium).

An injured third party has in all countries possibilities to go to the court or sometimes to a higher authority on legal or procedural grounds. It is not possible to appeal on policy/technical grounds in Denmark, Germany, the Netherlands, Belgium, Luxembourg, Portugal, Italy and the UK.

A building permit is valid only for a specified time. It varies between the countries. In Italy the work has to be started within one year after the final approval and has to be completed within three years. In Luxembourg the lifetime of a permit is usually two years, while in Germany the work has to start within three years. A full planning permission in the UK and Ireland normally lasts five years.

The construction after received permit is checked upon in different ways. A municipal building committee may be responsible but often the check-up is done by some kind of municipal or state servant, like a building inspector, who supervises the works or anyhow finally certifies that the construction complies with existing building regulations and conditions stated in the permit approval. In some countries, exception from certification is possible in cases, when this is obviously unnecessary. In countries like Portugal, Spain and Italy a formal occupation permit, a 'right of use', is granted when compliance with all conditions is certified.

Costs of permit and infrastructure, sometimes also planning costs, have usually to be paid in connection with the permit. Normally, the local authority has decided a certain fee for the permit itself, and to this may then be added a tax for development works. Where there is only one or a few developers, such costs as well as the amount of land to be left for streets, services and other public uses are usually decided in a development agreement. During later decades there has been a marked trend toward increased public/private partnership and it is nowadays usual that also the costs of the development are shared in some way.

When several smaller landowner/developers are involved, the normal thing is that the municipality builds the needed infrastructure, but that the owners later has to pay a tax or fee. This is calculated in different ways. Several countries connect it to the calculated implement costs. A normal rule in these cases - for example in Finland and Sweden - is that the costs to pay by the landowner shall not exceed his part of the total calculated costs for local streets and systems of water and sewage. Sometimes it is stated that the fee should lie a bit below. In Germany for example the site-owner is required to pay 90 % of the costs incurred by the *Gemeinde* in the provision of local infrastructure. Some other countries calculate fees in another way. In France a fiscal payment - borne by the holder of a building permit - is taken out in those municipalities which have decided so. The basis is the value (inclusive building) of the property held, and the lump payment may vary from one to five percent, depending on the decision of the municipal council but also according to the type of construction. In Spain a tax on constructions, installation and infrastructure works is taken out of around four percent of the total budget of the development (including buildings). In Italy a payment may be stated varying from 5 to 20 percent of the building costs, etc. There may also be other kinds of contribution. If in Denmark granting of a building permit needs a new or changed local plan which transfers a rural zone into an urban zone, then a property release tax is calculated from the increase in market value of the property. The tax is charged at 40 percent of amounts less than DKK 200 000 and 60 percent of the rest.

If an application for building permit is not approved, no compensation is as a rule granted. But there may sometimes be exceptions. In Sweden for example, compensation has to be paid if a building permit is refused for re-establishing a similar building as an earlier one, which has been demolished or destroyed by accident. In the latter case full compensation is given for the diminished value of the property, while in the former case only a damage above a certain limit is compensated for. In Germany there may be a possibility for a neighbour who is adversely affected by a construction to receive compensation in cases where the permit was illegal. The same is the case in France where also an illegal refusal may cause compensation. In Ireland compensation may be payable where it is shown that as a result of a planning decision the value of a person's interest in land has been reduced.

Illegal building without legal permit may in single cases occur in all countries but has been common in some. This has especially been the case in Italy but also in Belgium, Portugal and Spain. Different kinds of enforcements are then possible. Sometimes a building permit may be granted retrospectively, sometimes a fine has to be paid, but most countries also offer the possibility to order demolition of the construction. Not least from political reasons there may, however, be certain difficulties to use this possibility.

Besides building permits, several *other permits* may be of interest in the implementation process. Sometimes they also fall under the designation of 'building permit'. In Belgium this term refers to a collective noun for widely divergent actions such as building, demolishing, adaptation, etc. which all essentially are regulated and processed in a similar manner. But generally, the different types of permits are separated from each other by names, rules and processes. They may be needed for new constructions as well as for demolition, change of use, etc. of existing constructions. Some of them are connected with activities which may cause pollution, such as industrial processes. Others are concentrated on preservation of nature, landscape and

heritage. Some of these will be referred to in the following chapter. Others aim at preserving natural resources, such as minerals, gravel, soil, etc. Special permits may also be needed for commercial, crafts, trades and other activities. Many of all these permits are the responsibility of other authorities than the local authorities. But they often have some connection with the building permit in the way that such permit presupposes that other permits needed for a certain construction are approved, that for example environmental authorities or institutions have permitted the activities within an industrial building or that authorities responsible for heritage, landscape or seashore protection, etc. have allowed new or changed buildings or a desired building demolition in a sensitive area. The normal way is that all such kinds of permits must be granted before a building permit is issued. We will however not specifically take up all these different permit rules as this would carry us too far. The most important acts in these connections are usually those dealing with pollution, environment, preservation of heritage, nature and landscape protection, use of natural resources and protection zones around large infrastructure or military establishments.

One permit has in certain countries a more general control function, often in close connection with building permit, namely *subdivision permit*. In Finland and Sweden, it is a responsibility of the land surveying authorities which have to verify that a new or changed property will have a suitable location, size and delimitation with appropriate connection to road and other infrastructure. In cases of many new lots a formal detail plan will as a rule be necessary, but otherwise the appointed land surveyor has to decide to the extent that the responsible committee of the local authorities has not already given building permit or otherwise admitted the location. Also in France, Portugal and Italy subdivision is partly used as in some way a development instrument, named respectively *lottissement*, *loteamentos* and *lottizzazione*. The process is in many ways similar to that of a building permit. After application the owners involved may be authorised to subdivide their properties in lots according to a scheme. A subdivision permit confers building rights to the subdivider. The owners offer the land assigned to public use and construct the infrastructures and maybe some of the services at their own expense. A similar institute is used in Spain, called *proyecto de reparcelación*. The properties are divided into plots and the owners hand over land for public roads, parks, facilities, etc. to the authorities. The administration will initiate the action and will also carry out any urbanisation work at the expense of the owners. The distribution of benefits and charges is so divided among the owners according to everyone's area of land capable for construction. The institute thus has many similarities with the German *Umlegung*.

5.7 Rural implementation

What has previously been discussed in this chapter is mainly implementation of development within urban areas or areas planned to be urbanized. In rural, non-development areas, implementation instruments are mostly connected with specific sectors as agriculture, forestry or infrastructure. Usually the connection between the comprehensive regional and local planning and its implementation is weaker, since the directives applied to planning within rural areas seldom are legally binding. Infrastructural implementation depends as a rule not on comprehensive plan directives but on detailed working plans established by the specific sectoral authority, when the time is

ripe. Preservation or landscape protection areas is also usually a matter of sectoral decisions, even if the structural plans may be a base for such. And what is done concerning agricultural and forestry activities is seldom determined by spatial plans but by individual efforts and controls and sometimes active measures by sectoral authorities.

The implementation of a structural plan in rural areas consequently depends on the extent to which the sector authorities accept and adhere to the plan guidelines, when carrying out their respective control functions. These vary from one situation to another, but often include an investigation whether certain measures should be allowed or not. It could be a decision on application for building permit, to clear-cut a forest area, to implement water regulations, to start primary extraction activities, to cease cultivation of arable land and so on. Changes in property division are often of importance to land use and are subject to general legislative directives and also to authority control in specific cases.

Looked at in this way, a large part of spatial planning in rural areas could be characterized as passive, aimed at providing support to decisions by authorities on whether to give permission to certain changes in land management, infrastructure or property structure. The implementation of a plan is consequently primarily determined by a series of such decisions. Sometimes, however, the plan could also lead to active measures by the authorities. They may, for example, decide that an area should be given a certain legal protection by declaring it a nature reserve, a cultural heritage area or suchlike. Regulations for its management will be laid down at the same time. The plan may also point at certain areas that would be suitable for development and should be subjected to detailed planning for this purpose. A wider field of active measures is also open to authorities and organizations, if the plan contains elements of an economic or social nature, aiming to further the development of trade, industry and social conditions.

What is earlier said about methods to implement *housing and similar development* is in the main applicable also in rural areas. Special problems may however arise, not least from the viewpoints of cultural heritage and landscape protection. In England and in several other countries it has been feared that new buildings added to old country villages could have a negative effect on the existing cultural environment, both visually and socially. There is also a tendency among affluent newcomers to buy houses in the old villages at exorbitant prices and in this way reduce the number and cultural influence of the original inhabitants. Such adverse effects could, at least partly, be overcome by village planning. This should aim at protecting existing cultural values, integrating new settlements with the old village centre so that they blend in with the country-side, and enhancing the environmental merits through various co-ordinated measures. Examples of such measures may be found in Germany for instance, where both national and local authorities have subsidized village development and village renewal schemes, particularly in the large and condensed farming villages of Baden-Wurtemberg and Bavaria. The case concerning planning and implementation of summer-houses is a bit special, Government subsidies are seldom paid, unless facilities for tourism are involved. Local authorities are not normally active in planning for summer-houses. The developer usually draws up the plan which may be more or less detailed. Road requirements are stated and often also house groupings and divisions into blocks. The needed infrastructure is as a rule built by the developer. Occasionally,

agreements between the local authority and the developer can be made regarding roads and solutions of sanitary problems. The development is not always supported by detailed legal plans. As we have mentioned earlier, in France and several other countries more informal procedures may be used as *lottissement*, etc. If the plans are informal, the evaluation will take place when the application for subdivision or building permit is considered.

Summerhouse areas may later be caught up by other development. This is particularly applicable to settlements in the vicinity of major cities. The summerhouse area gradually turns into a district of permanent residences as suburbs are built, car ownership increases and commuter distances become longer. When permanent living in the area becomes common, new requirements emerge for road systems and water supply installations. At the same time, the costs involved in raising the technical standards can be very high if the leisure area - which is often the case - is situated in relatively inaccessible terrain. The change could thus be difficult to implement both for this reason and because so many owners are involved. Adapting older summer-house areas may consequently often involve severe adaptation problems, which however hardly have been systematically tackled in any of the West European countries.

We will not take up implementation of infrastructure in rural areas here but refer to what has been mentioned earlier. Implementation of roads, railways, etc. is governed by a special legislation and this is not the place to enter deeper into it. Concerning implementation of preservation and environmental matters - which in some areas is a main issue - we will take up it in the next chapter.

Nor will we go deeper into the implementation of measures supported by the EU. They certainly often have a great significance for areas and regions affected by them. Their main goals are usually to improve economic and environmental conditions and to this end they may also have spatial consequences, especially concerning infrastructure and reservation of protection areas. But mainly the implementation of EU projects has to follow the same legal rules and proceedings as projects in general.

Instead we will take up a certain discussion concerning measures to reorganise the farming structure, which in typical rural areas is of significance due to their development and total standard. One way to improve the economy of the farms is of course to increase the prices of farm products. In all the countries the states have intervened to do so by means of duties on competing foreign import, market regulations, etc. In cases where the total production has exceeded the needs of the country, export subsidies have been common. Later, this has been organized within the EU as a common agricultural policy. Trials are made to reduce overproduction by subsidies to discontinued production or transfer to more extensive crops, prices are regulated in combination with some support to export outside the EU and the total income level is raised by money contributions calculated according to the size of the farming areas.

The policy has also been directed to increase the farming efficiency in the long term perspective by improving their structure. Mainly, these means have not been undertaken by EU but have been used at a national level. Subsidies and loans are thus usually provided by the State or connected economic institutions to new or improved buildings, to drainage and to other enhancements of the farming enterprise. It is also usual that support by loans etc. can be given for enlargement of farms by acquiring neighbouring additional land.

Some countries have been still more active in this respect. Sweden has been an example of such a country. A law to keep the land in the hands of the tiller was introduced in 1945, stating that application for land acquisition outside the family should be considered and preferably rejected if the person in question did not intend to farm the land himself. By a regulation a few years later it was stated that the acquisition could also be rejected if the land was needed to strengthen the position of other farming units nearby. This regulation was later replaced by a special law on pre-emption, aiming at stimulating expansion of farming units. Special state county agricultural boards were set up to deal not only with prohibition and control but with a main task to stimulate agricultural rationalisation programmes. The activities of the boards included also acquisition of land on the open market with the purpose of using it to strengthen suitable farming units, often at subsidized prices. During the 1990s, however, these State activities have been more or less abolished. Several other countries have periodically been active in similar ways by state, semi-public or private farming organizations.

What has meant more, however, is programmes for land consolidation by restructuring and reallocation projects. In the West European villages it was since long usual to subdivide the various plots of land into long and narrow parcels, which in time were still more subdivided in connection with inheritances, etc. As such a structure seldom is suitable for modern farming. Land restructuring and consolidation have been an important issue in many European countries.

The initiative behind a project may come from various sectors. A landowner might raise the issue and request property regulation from the appropriate authority. This has been the normal way in the Nordic countries. In Germany and the Netherlands the responsible authority has undertaken more or less continuous surveys and feasibility studies for suitable objects, which the landowners later have had to take position to. When there is a majority for the project it is started with the assistance of surveyors and other specialists. The goal is mainly to reallocate the land into bigger parcels of suitable shape for farming operations and with a good interplay between property boundaries, roads, open ditches and canals, including at the same time an equitable distribution of land, which provides all landowners involved with similar advantages. It is also desirable to buy available land within the project area and use it later to enlarge the remaining farming units. The planning of the new units goes hand in hand with planning of needed field roads and other infrastructure as well as with valuation of earlier and new parcels. Much of the costs is usually subsidized by the State and the rest is distributed between the landowners before the formal process can be concluded.

Historically seen, formal consolidation processes were early in England, where a certain type - enclosures - was practised already at the beginning of modern times and were rather common especially during the 18th century. During the latter part of the same century and during the following part, the Nordic countries implemented reallocation on a major scale with the result that the major part of Denmark, Sweden and Finland was regulated before 1860. The regulations resulted not only in greater efficiency and intensified farming methods but also in major reclamations and much increased cultivated area. Norway came later and has mainly concentrated on forest consolidations and still has a considerable activity concerning such projects.

Legally instituted property regulations came later in Central Europe, even if there were sporadic attempts early. Activities on a relatively minor scale occurred in Germany



Figure 6. Before and after land consolidation of a German village (Larsson 1997)

from the end of the 19th century, but they only gained momentum during the period between the wars and after 1950. The need was extensive, particularly in the Rhine area and southern Germany where large villages were common. The consolidation activities were carried out by special governmental authorities. Gradually, they came to include

the establishment of road and drainage systems of a high standard, and the reallocation could later be based on these systems. The greatest part of needed reallocations have now been implemented, but new needs have come up when new stretches of roads, railways, etc. divide existing farmland. An example of consolidation is given in figure 6.

The need to reorganize the agrarian structure has also been great in the Netherlands, especially in the eastern parts of the country. These projects are remarkable, not only because of the establishment of new high class road and ditch systems, but because of the far-reaching regulation of the water factor undertaken at the same time through pipe draining, levelling activities, etc. The costs per hectare unit are therefore quite high, but the landowners have only to pay for the increases in market value - cautiously calculated - while the public authorities bear the brunt of the expense.

In France, property regulation activities increased dramatically after the Second World War, and calculated in number of regulated hectares the area surpasses that of other countries. Most of the area that requires consolidation is now considered to have been covered. If there is a majority for starting a project after the preliminary plan has been presented, the local authority will appoint a committee to execute it, which then appoints experts for assistance, usually private surveyors. The infrastructural activities are normally more limited in France than in Germany and the Netherlands and the total costs per hectare as an average considerably lower.

Spain has also had major activities in this field in later years. The process has been similar to that in France. The central plain has been particularly subjected to the activities. In Italy, on the contrary, not much has happened.

Experience has shown that land consolidation is one of the most effective measures to modernize outdated property structures. It has fundamentally changed the farm structure in large parts of Western Europe. The strong points of land consolidation are that one operation can cover a large area, that the outcome is relatively independent of existing boundaries and that so many other improvement measures can be combined with the regulation activities. Land consolidation has thus become one of the most important implementation instruments of rural planning in several countries.

6. Renewal, Heritage, Environment, Water

6.1 Renewal and regeneration

One of the central problems of urbanization is regeneration, primarily of the older city centres. Historically, a common development in the West has been that these became slums or decayed areas. The wealthy, companies and banks have moved from overcrowded centres, rents have fallen comparatively much, maintenance has been neglected, erecting new buildings in decaying neighbourhoods has not been economically attractive and the deterioration has continued. The problem of replacing older layout and buildings has of course existed since long. In older times this was often solved in connection with catastrophes such as big fires, war damages, etc. Sometimes renewal was also influenced by a desire to demonstrate glory and power by establishing great boulevards or magnificent open places within the cities.

However, renewal of city centres accelerated after the Second World War. There was a great deal of destruction in many cities and under any circumstances it was necessary to rebuild them. In these cases as well as in other renewal projects it was often a question of large operations including demolition of more or less entire city areas and a following replacement by modern buildings, new and enlarged street systems and enrichment with open places and green areas. The measures were many times also explained as necessary for an expanding traffic. The scale of the operations usually demanded an active support from local authorities. The area could be declared a renovation unit with a consolidated input of accessible compulsory and stimulatory measures like land expropriation, demolition and new construction on a large scale, redefinition of boundaries, the input of different forms of subsidies and loans, the creation of a particular organisation for implementation, etc.

In recent years the character of the renewal operations has partly changed. The direction has successively been modified in most western countries. Less weight is placed on total replacement and more on gradual enhancement of an area by successive replacement of older buildings, interior and exterior improvements of the building stock, solving of parking problems by new parking houses and parking lots and more far-reaching traffic regulations. Heritage considerations have made authorities and people more cautious against total destruction, and it has also been more obvious that traffic problems can seldom be solved this way. Investments in integrated renovation has now also been a concern in many peripheral sections and suburban areas, where the early post-war developments have often become quite run-down and unattractive, perhaps with empty flats as a result.

At the same time these trends have given more space to the private sector, even if co-operation and stimulation in different forms from local authorities usually is a prerequisite. Needs of large-scale projects for more comprehensive solutions of older quarters however still exists, not least in connection with transformation of earlier industrial areas into commercial and residence areas. Regeneration of such central areas has in most cities been an important planning task.



Figure 7. Demolition in the centre of Stockholm 1951-87. Black areas demolished up to 1975, hatched areas demolished after (Hall 1985, updated)

The means used are largely of the kinds already discussed. In renovation areas they ought to be co-ordinated and intensified, however. An example can be taken from the German legislation. According to the *Bundesbaugesetz* a municipality can, after preparatory investigations and through formal decisions, delimit the area to be renovated and lay down guidelines for the renewal, work out the necessary building plans for these areas as well as introduce temporary restrictions against large-scale changes. The municipality can also introduce the requisite changes to the boundaries of properties and facilities, acquire land by voluntary or compulsory purchase, demolish buildings and move residents. It may also sign agreements with landowners transferring the work party or wholly to them. Compensations and settlement subsidies for the financing of the renewal are then determined.

Similar instruments and actions are found in most of the West European countries. In Sweden, large renewal projects were implemented especially in central Stockholm but also in many other central urban areas during the 1950s and 1960s. The main methods were expropriation by the city authorities, demolition and new construction (figure 7). Para-municipal organisations were often responsible for further development, although they many times used private builders. But these demolition and rebuilding operations later met with heavy criticism. Large-scale operations have therefore been superseded by small-scale completion and renewal projects and by large action programmes to raise the interior standard of existing houses. The main means have been loans on favourable terms.

In Finland a large problem has been to improve the somewhat unpleasant suburban prefabricated housing areas built during the 1960s and 1970s. A large public-private co-operation project has been initiated to renovate these areas all over Finland. Many city centres have also been revitalized, often by commercial shopping establishments, which have reduced the need of shopping centres outside the existing urban areas. In Denmark a special Urban Renewal Act was approved in 1982. The Act shifted the focus from slum clearance, by demolition and replacement, to renewal by preservation and improvement of housing standards and the local city environment. After a local plan for the project has been adopted, it is in most cases executed by special urban renewal companies, which are run on a non-profit basis. The costs of urban renewal activities are in principle shared equally between central and local government.

While in the countries mentioned renewal is mainly a responsibility of the local authority - even if partly supported from the State - it is above all a regional concern in Belgium, reflected in regional development plans, where special urban renewal areas are identified. The principles will be implemented by building regulations, programmes to make the city attractive and partial development plans. The identified areas can receive financial assistance but may also be obliged to pay taxes if the plans are not implemented. For instance, the Flemish 1995 Decree on the Prevention of Unoccupied Industrial Space, requests the municipalities to draft an annual list of all unoccupied buildings. An annual tax is levied on these, of which 20 % goes to the municipality and 80 % to a regional fund, which will be used for renovation works. If a property remains more than two years on the list without the owner having taken a renewal initiative, the property may be expropriated.

In France property rehabilitation programmes may be established within a boundary set after a public inquiry and decided by the municipal council or the prefect. They may be initiated by the property owners or by public authorities. The owners are given the choice of implementing rehabilitation measures themselves or become subject to compulsory purchase. If they are doing it themselves, they have to create an association or alternatively to appoint a relevant company for rehabilitation by contract. They also benefit from significant fiscal advantages if they undertake the necessary work themselves and are entitled to financial aid to improve housing and other specific facilities.

Spain is example of a country which has no specific agencies or mechanisms for urban regeneration. Principally, it uses the normal institutions where regeneration activities are undertaken on the basis of local plans and with support of the local authorities and sometimes by compulsory purchase of land. In cases of large projects, economic collaboration may be needed from central and regional governments.

In Portugal on the other hand there exist several organisations and agencies that have special responsibilities in this field. Regeneration of slum areas has still been an important issue. The Metropolitan Areas' special Rehousing Programme has thus the objective to put an end to shanty and overcrowded housing conditions in the metropolitan areas. The Directorate General for Physical Planning runs the Regeneration Programme of Urban Problem Areas, which is intended to provide financial support to local authorities in their regeneration work with subsidies up to 20 percent of the total construction costs.

In Italy the *communi* may identify renewal areas on the basis of physical decay and provide plans for their recovering. The plans may be assisted by public financial

contributions, and they may be carried out either by the public or the private sector. Special programs can also be erected with regional support.

In the UK there exist several organisations dealing with urban renewal, both of governmental, semi-public and private character. Urban development corporations are thus government agencies which have powers to acquire land within designated areas, *urban development areas*. Other key agencies and programmes are English Partnerships, City Challenge, inner-city task forces and city action teams.

In Ireland, the local regeneration work is much a matter of local authorities working together with the private sector. But the central government may also be involved. According to the Urban Renewal Act of 1986, the Minister for the Environment declares an area to be a designated area. The tax incentives offered include a capital taxation allowance in respect of expenditure on construction of dwellings. Also special village renewal programs exist, partly co-financed from the European Agricultural Guidance and Guarantee Fund.

Renewal programmes exist in all West European countries, but, as can be seen by the description above, organization, methods and financial support differ. In several countries, like Germany, renewal areas may be designated, where special legal and financial measures can be applied, while in other countries like Spain and Sweden normal planning and implementation methods and organisations have to be used.

6.2 Heritage

Aspects of preservation and protection of the historic and cultural heritage have in recent decades acquired an increasingly strong emphasis and drawn more and more interest, when it comes to both planning and development control. It is nowadays an important input especially to the creation of the urban environment. In all the West European countries building permits are thus required for major house renovations, and rules governing demolition have been introduced in the legislation. Control is simplified if it can be based on building inventories and evaluation of the cultural and historic value of buildings and environments, something which should also result in a certain legal protection of the most valuable objects. Regulations pertaining to such protection declaration are found in all the countries concerned. Often they are supplemented by rules governing the compensation to be awarded for refused demolition or prescribed expensive building maintenance.

There are many similarities between the countries concerning regulations and instruments for protection. One is the type of protection used. In principle there exists in all the countries mentioned protection of objects (inclusive their nearest neighbourhood) as well as protection of areas. Objects are normally marked by some type of registration or listing, often with a demarcation of different classification depending on the preservation value of the object. The historic value plays an essential role and most listed objects are as a rule comparatively old. In Norway for example all monuments and sites earlier than AD 1537 are automatically protected as well as all Sami (Lapp) monuments and sites that are more than 100 years. In England for example all buildings older than 1700 are as a rule qualified for protection as are most of those built between 1700 and 1840, while more recent buildings must have special values from other cultural aspects or be unique from some other viewpoint in order to be listed. Protection areas may be declared by special decisions but are often a result of

spatial planning, where they are demarcated and given special preservation regulations. In such areas, single houses may not always have a high cultural value. But they are part of a total environment which should be worth to protect.

The goals of protection may also be rather similar between the countries. Some objects may have such a specific antique or general historic value that they ought to be preserved unmodified and with a strictly limited use. But mostly it is considered desirable to let the object or area exist as a living economic unit, adapted to a suitable utilization of time. Experience shows that it is seldom possible to preserve more than very few objects, unless certain - mainly interior - modifications and improvements are allowed in order to make them more suitable for economic use and provided that this modifications will not in any essential degree lessen their cultural value. To list a building or designate an area for protection shall in general not mean that a dead hand is laid on it, but that there is still room for market-oriented adaptations in design and use.

In many respects there is also a similar view on compensations. Irrespective of attempts to avoid too heavy burdens on the owner, restrictions and obligations concerning rights to demolish, to change and maintain buildings may cause decreased property values and increased investments or running costs. A common feature of the countries concerned is however that full compensation is seldom paid. This is very obvious in a country like England. There, the opinion is that if you own an old house of a certain cultural value, you must accept that it may be worth less, cost more to maintain and that certain restrictive rules in such cases may be natural without special compensation. Several other countries like the Netherlands and Sweden give possibilities for some compensation, as a rule however not in full. The normal way in such countries is that compensation is a part of the negotiations between authorities and land owners, where also possibilities of subsidies, tax relief, etc. constitute other issues. The parties will almost always come to an agreement and court cases are very unusual. If compensation is paid it will as a rule not take place until an application for demolition, etc. has been refused. But if in a local plan or otherwise a prescription stipulates that a measure such as demolition is forbidden, then sometimes - as is usually the case in Sweden - compensation may be paid at once. In Sweden, Denmark, etc. the owner also has the possibility of applying for public acquisition of the property, if the economic losses because of preservation regulations are too great.

A common trend is furthermore that decisions and listing of preservation objects of national or regional importance is a matter for national and regional authorities, while objects of a more local value may be protected by local authorities, either by special decisions or as part of regulations in local plans. Conservation areas are most commonly regulated in connection with spatial planning at lower levels. But there are variations.

In England decisions concerning listing of an object shall thus be taken by the *Secretary of State for National Heritage*, in doubtful cases after consultation of *English Heritage*. This requires a special permit for demolition or changes that influence the interior or exterior character of the building. The permit application is considered by the local planning authority, generally after information has been submitted to *English Heritage* and - in case of intended approval - with possibility for the *Secretary of State* to take over the case. Decisions concerning conservation areas are taken by the local planning authorities. Within such an area, there is no longer any freedom to demolish a

building and approval of planning permission will be somewhat restricted.

In Denmark the State board of *Skov- og Naturstyrelsen* is responsible for protection - *fredning* - of valuable buildings including their close surroundings. Everyone can take an initiative after which negotiations with the owner and proper consultations take place prior to the decision. Appeal is possible to the Minister of Environment. Applications for demolition and major changes to the building have to be approved by *Skov- og Naturstyrelsen*, but a building permit from the local authority is also required. Decisions about preservation of areas have on the other hand to be taken by the local authorities in connection with the normal local planning.

Also in the Netherlands preservation of objects of a national and regional importance by a specific registration is a governmental responsibility (even if the municipality has to be consulted), while objects of a more local value may be protected by local authorities, if they possess the required competence. Otherwise the Minister of Culture has to decide in local as well as central cases. Even decisions concerning establishment of a protection area have to be taken by the government, after which the municipality has to establish a local plan which takes this decision into consideration.

Germany differs in some respects. One thing is that every *Land* has its own preservation legislation. In some *Länder* an object is automatically protected, if it conforms to certain conditions prescribed in law. In other *Länder* the object will only be protected if it is registered in the *Denkmalliste*. A municipality is obliged to include the object if it conforms to the legal conditions for a heritage object. The owner however has the possibility of stating his viewpoints. Appeal is possible. Also protection areas (*Denkmalbereich*) are decided on by the local authorities in a *Bebauungsplan* or according to local statutes, but the decision may be considered by a higher authority.

In Belgium, mainly the regional authorities and in Luxemburg the central State are active concerning urban preservation, even if certain municipalities also have developed a consistent heritage policy. In France, buildings may be classified as first-grade or second-grade listed buildings, and any works affecting such buildings require special authorization, approved by a special State authority, the *Architecte des batiments de France*. Areas may also be established as *zone de protection* by the regional prefect following the proposal or with the agreement of the municipal council concerned and after a public inquiry. The Minister charged with urban planning may also decide to create such a zone.

In Spain the fundamental document, together with the Protection Rules, is the listing of land and buildings declared to be of cultural interest. In practice, the common approach to protection has been drafting of corresponding plans. In Spain's historical centres, therefore, there exists in general good passive protection but less good active protection.

In Portugal as well as in Italy the protection of historically and culturally valuable buildings are highly centralized under the Ministry for Culture and its representatives at a lower level. The local authorities may however classify buildings of local interest as well as include protection areas in the local plans.

Listing, classification and establishment of protection areas is a passive protection possible in the way that all major changes in buildings and areas have to be controlled, approved or prohibited by the authorities concerned. A more active protection requires formal prescriptions or incentive measures. Normally it is stated that the buildings must

be properly maintained. If this is neglected, in most countries the local authorities have the possibility to prescribe that this must be corrected and if this is not done a fine has to be paid. In some countries - as in Italy - the State authorities may even expropriate the property, if an owner does not fulfil the obligations related to the conservation of the property.

For some objects the restrictions will lay a considerable burden on the owner. For other objects much restoration work may be required. Therefore, financial incentives are in many cases a must for a more active heritage policy.

These economic stimulants may be of different kinds. One is tax relief. In almost all of the countries more or less of these measures can be found. Relief is often granted for investment costs in case of restoration but may sometimes also be granted for increased maintenance costs. Another stimulant may be advantageous loans for improvements. In almost all countries subsidies are furthermore given if essential works have to be undertaken on culturally valuable buildings to restore them or to make them function properly in a market economy. In most cases such subsidies are financed from State funds and granted by decision or upon advice from central or decentralized specialist institutions. In some countries - as in some German *Länder* - the government grants certain funds to the municipalities to be used for heritage purposes according to the free decision of the local authorities, if they themselves contribute at least the same amounts.

You can say that the types of economic incentives used in the different countries are rather similar, but the amounts spent per unit differ considerably. This partly depends on differences in commitment and the economic basis of central and local authorities. Not least a great deal of the local authorities in several countries have only small personal and financial resources at their disposal. But also the view on the position and duties of the owner of the building is of importance. If - as in the UK and Ireland - a common view is that the owner himself has to take the main consequences of a certain age and cultural value of his building, then the central and local support may be less than in countries with a somewhat other view like Germany and the Netherlands.

6.3 Environment

Preservation and protection of the environment is an aim which for a long time was accorded a rather low priority, especially when it came into conflict with economic interests. In recent decades the situation has changed, stress has been laid upon sustainable development and Agenda 21 only gave expression to what was already being emphasized with greater and greater intensity, at least in Western Europe. Everywhere, the national governments have strengthened their laws concerning environmental protection, not least under EU influence, including measures for limiting pollution, waste handling and recycling but also emphasizing the needs to consider environmental issues in spatial planning. Several countries have also worked out national environmental programs, for example the National Environmental Policy Plan in the Netherlands, the Environmental Action Programme in Ireland, the Environmental Programme 2005 in Finland, etc. or established especially advisory groups as the Green 2000 Advisory group in Ireland, the Round Table on Sustainable Development in the UK and the Comité Interministériel de l'Environnement in France.

Environmental issues are also of importance within regional plans, not least in connection with identifying preservation areas, waste disposal, etc. At the local level matters concerning environment and sustainable development are steadily gaining importance. Environmental consequences are now a major concern in development, at least in principle. But the real proof in reality concerns which considerations are taken when there is a clear conflict between the economy in a narrow sense and the environment. How much land should be kept as reserves and what restrictions should be applied? How much fertilizing is acceptable in farming without causing unacceptable levels of pollution in the water? To what degree should sea and lake shores be free from exploitation? How much green space should be left in the cities? Which costs are affordable to develop a pleasant and human town milieu? And so on.

In the legal structure as well as in practical applications, environmental considerations are of basic importance in many connections. Usually it is explicitly stated that environmental considerations should be applied to the whole field of spatial planning and implementation. Not least according to decisions taken in the EU, environmental impact assessments are as a rule prescribed for constructions of a certain size or otherwise of great environmental impact as well as in connection with various spatial planning. But in addition, there are also in all the countries concerned specific laws for environmental protection.

Here we can mention three main groups. One is connected with the pollution risks. Traffic and other expressions of our daily life as well as most of our production create substances which in too large concentrations will be injurious to us and to other form of life on Earth. A legal and control network has therefore been established to keep pollution within reasonable limits, partly built on what is allowed in our behaviour, partly dealing with what activities must be approved by authorities and which standards are established for these considerations.

A second key issue is tied to the biological perspective. We generally want environments where existing flora and fauna can survive. Sustainable preservation of biological diversity with its richness of biotopes and species has nowadays become a very important concept. This requires adaptation, primarily of farming and forest activities, and also restrictions on various kinds of pollution. It also involves demands for special protective measures in specific areas with valuable but endangered or otherwise threatened biotopes, plants and animals.

A third group of considerations focuses on aesthetic and visual aspects as well as on our needs for recreation areas, important things for human well-being. It means that the countryside and the built environment should be appreciated as beautiful and attractive, if possible reflecting something of our historic and cultural heritage, and furthermore that we will have enough pleasant locations where we can spend some of our outdoor leisure activities. Our environment should consequently be pleasing to the eye, have roots in the past and give us opportunities to create a full and rich recreational life.

Of course, these three groups are not strictly separated but partly overlap each other. Sometimes they go together and sometimes they compete, for example the aims to protect undisturbed areas for flora and fauna or pleasant seashores and the wish to open them up for recreation.

The application of all three groups may have spatial consequences. This is obvious for the last two. But pollution control may often also have land-use consequences, for

example concerning the location of disturbing or defiling industries and the reservation of protection zones around them, prohibition of certain production, change from intensive to extensive agriculture, maybe even reforestation, etc. Not least the standards and directives adopted by the EU are of importance in such connections as well as national pollution limits and other prescriptions. Special permits may be needed in such connections, often granted by authorities at a national or regional level. But otherwise the pollution problems and their spatial consequences are usually handled within the general planning system. We will therefore not go further into these issues.

Concerning the other two groups mentioned above, the situation is somewhat different. These groups are as a rule considered in reservations/regulations of special protection and conservation areas in case they are not handled as heritage issues such as those discussed above. Such regulations or reservations often play an essential role in the planning i.a. of rural areas.

We find then that there are many formal similarities between the countries concerned. All of them use reservations of different kinds to protect valuable areas. All thus have a type of protection area of considerable size - which we may call national parks - and which normally are motivated for biological, landscape as well as recreational reasons. Most often they are located on State-owned land, often in sparsely populated and possibly mountainous areas as in Sweden, Germany, France and Italy. They provide opportunities for long-distance recreation by wandering, fishing, etc., partly within valuable landscape areas. If recreation is properly planned, it can usually be carried on side by side with protection of valuable biotopes and preserved landscapes. Protection is further secured by regulations for the designed area such as rules concerning forest management, development control, etc.

As national parks may also include populated areas, there is sometimes a conflict between popular desideratum of continued development with new labour opportunities and the park restrictions. Even if these do not completely stop new establishments, the conservation attitude may be felt as a hindrance for new development. In England for example a vivid debate has taken place concerning this problem. After the adoption of the National Parks and Access to the Countryside Act of 1949, which was intended to stimulate landscape preservation, recreation and protection of the environment and cultural heritage, ten parks have been created in England and Wales (figure 8). Together, they cover almost ten percent of the total area and have local authorities of their own. The authorities have been restrictive towards further development in these area, particularly mining, road construction and new buildings. There are however claims that it places a dead hand over the districts concerned, that labour opportunities are lost and that poorer residents are hardest hit. It has also been feared that tourism and long-distance recreation should encroach upon preservation aims. As far as possible, attempts have however been made to avoid this by diverting recreational activities to less sensitive areas within the parks by creating tracks, special attractions and facilities. There have also been attempts to divert large excursion crowds to places outside the National Parks by establishing special Country Parks not too far away from the towns. We find much of the same problems in the other West European countries. One way to reduce them has been to establish different types of protection and recreation areas with somewhat differentiated purposes. They may have many names but terms like nature parks, nature reserves, landscape protection areas, conservation areas or objects, etc., are common. As a rule, the first terms are used for areas smaller than national

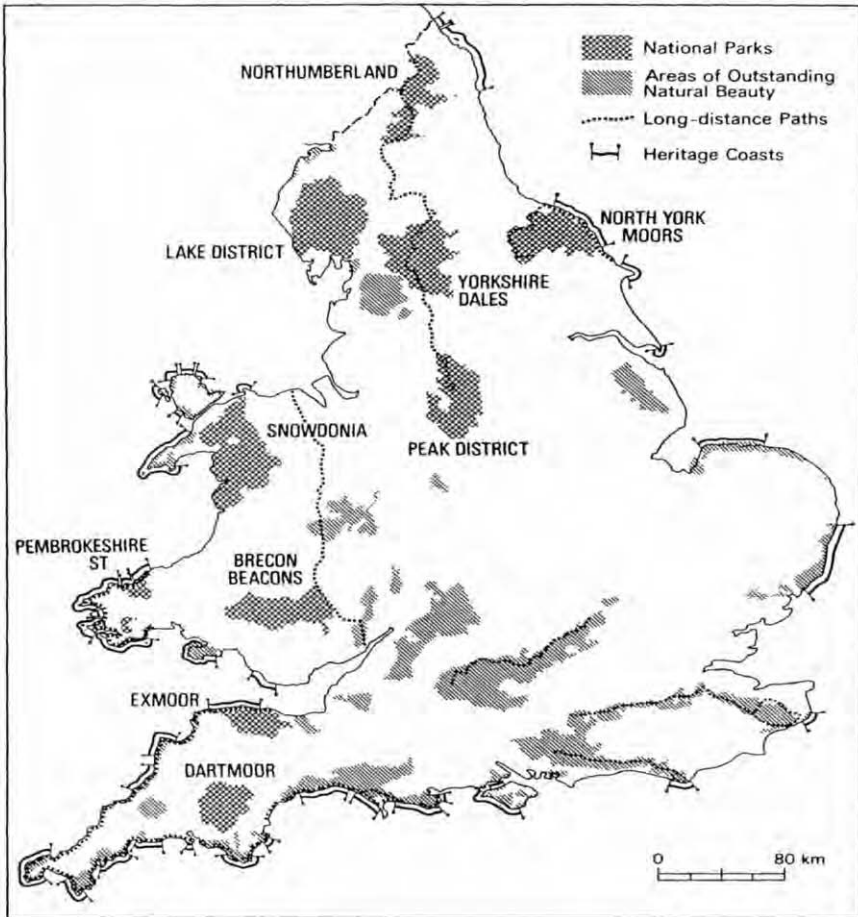


Figure 8. Major conservation and recreation areas in England and Wales (Countryside Commission, 1975)

parcs and are also usually more directed at protecting nature species and values, not so much at serving recreation purposes. Still more directed at this is legal protection of smaller objects or areas with specific fauna or flora or otherwise of a natural value. Sometimes preservation regulations have a rather general form. In Denmark for example, the Nature Protection Act gives general protection to coast, lakes, streams, woods, bogs, marshes, heaths, dunes and ancient monuments, usually with protection zones and a need for special permit for construction work within the zones. The law thus states zones of 300 m along the coasts of rural areas, 150 m around lakes and streams and 300 m around woods and churches.

Depending on the value of the area and purpose of protection, the establishment process differs. If the object is of national importance, it will usually be the government or a specialized State institution which has the main responsibility, such as the Minister of Environment or a State department connected to him such as the Regional

Environment Centre in Finland, in Sweden the Nature Protection Board, in Portugal the Institute for Nature Conservation or the Countryside Commission in England. Even if this is not always prescribed in law, consultations and negotiations with landowners and local authorities usually form a part of the decision process. Objects of a more local importance are generally decided on at a lower level, sometimes however with right for authorities at a higher level to interfere.

Reservation of an area means as a rule that the use and management of the area will in some respects be restricted. Several countries open possibilities for compensation, but the conditions and amounts vary a lot. Full compensation is seldom granted. In Sweden for example it is stated that compensation is only payable for damages in current use, not for reduced expected value, only when the damage is considerable and only for such damage that exceeds this limit value.

Generally it might be said that when objects or areas are granted formal legal protection, this is as a rule principally motivated from environmental or preservation aspects and only to a lesser degree from recreational viewpoints. Green or open areas for recreation on the other hand form a main object in normal spatial planning, maybe specially designated in the plans and often with prescriptions of their own.

Protection is normally given also to *coastal* areas. They are everywhere recognized as important natural resources. Denmark has as previously mentioned a general protection zone along the coast. The same is the case in Sweden, which also in its environment law provides different prescriptions for different coastal stretches. Another example is Norway where there is a ban on building activity within a 100 meter wide belt along the seashore for the whole country outside the built-up area

In Belgium the dune areas are given special protection. In France buildings or other constructions are generally not allowed within 100 m of the shore and new roads not within 2000 m. The urban planning instruments in maritime municipalities should furthermore try to determine their capacity to accommodate seasonal population, taking account of the required conservation of green spaces and the natural environment. In England it is predominantly the responsibility of the local authority to reconcile interests in the coastal zone. However, many of the special policies that apply to specific areas of high landscape value or to areas of scientific interest equally apply to coastal zones. In Spain, the coastal areas are often subject to pressures from leisure demands. To a large extent there has earlier been a lack of protection of the coast, but a national plan has now been drafted with the main aim of regenerating or restoring coastal areas which have suffered damages. In Portugal the *REN (Reserva Ecológica Nacional)* defines areas to be protected because of specific ecological characteristics. It includes coastal zones, areas adjacent to rivers, in-land waters, etc. and excludes urban development initiatives, buildings, roads and other infrastructural works which may destroy the top layer of the land. For the coastal zone special physical plans may be established. In Italy protected marine areas are established by the minister of environment.

6.4 Water planning and control

When water resources have come into focus in the West European countries the two main objectives are to maintain water supply at the level of demand and to protect ground and surface water from pollution. These problems constitute partly technical

but also legal issues to a large extent. Most countries consequently have an established regulation network for the use and protection of water resources as well as regulations on ownership and water usage rights.

The need to establish strict rules for water usage has existed for a very long time, particularly in areas with 'river cultures'. The legally inclined Romans also established a developed system of water rights. One of the fundamental principles was that the title to water followed the title to land. All water sources within a private area were considered private property, but the water in the large regions that were seen as public property belonged to everybody. Flowing water was gradually included in this category.

Roman law has influenced legal concepts in large parts of Europe also in modern times. The Code Napoleon of 1804 was to a large extent based on these principles. The French legislation strongly influenced legal concepts in many other countries (such as Italy, Spain, Portugal, Belgium and Holland - 'civil law countries'). According to this law, there was still a distinction between public and private water. The first category referred mainly to running water, but water of public interest was gradually transferred to this category as time went by. More extensive use of public water usually required authorization, concessions or some other kind of licence. Private water, on the other hand, could be used freely. This included ground water.

In England, on the other hand, water is neither owned by the state nor by private persons, but is a resource for everybody in accordance with common law. Citizens with properties bordering on water have a primary right to use it. The right basically covers usage for household purposes and for cattle, as well as water for irrigation and other activities involving reasonable quantities, as long as the water usage does not encroach considerably on the rights of others. But nobody has the right to pollute water.

The differences between civil law countries and common law countries have diminished gradually. Previously, water rights were mainly concerned with disputes between different landowners but public authorities' control and influence have been more pronounced in recent years. On the whole, license systems have been introduced for more extensive water usage, particularly in connection with irrigation. Co-ordinating institutional machineries, such as national water boards, councils or committees, or bodies forming part of an overall environmental council, are being set up. Public authorities now have ample opportunities to guide development in the right direction and to control various aspects by using legislation and setting up institutions. Still, some pollution sources are however difficult to control. Pollution from agriculture fertilizing, etc. is thus a major problem in countries like Denmark, Ireland and the Netherlands and is also subject to discussion in several other countries. Especially in Denmark and the Netherlands there is also a need to protect the groundwater level from further lowering.

Growing concern for environmental effects is an important international trend in this development. Qualitative aspects and protection against pollution are given greater emphasis. It can be manifested in different ways. But a functioning system to deal with procedures to establish control and issue permits (concessions, administrative authorisation, court trials, etc.) is a primary requirement. Formal analyses of consequences, describing the effects on the environment of a proposed measure (environmental impact assessments) are in all the countries becoming regular features in the licence-granting procedure.

Legislation as such can lay down general rules how to act and thus has considerable power to control various projects. Just as in other contexts, specific planning is needed to implement the projects. If it is of public interest, it has normally been preceded by a licence assessment, where certain guidelines and conditions for implementation are stipulated. A check to make sure that these conditions have been met usually takes place, when the implementation process is completed. Follow-up checks are normally also required to ensure that the measure does not involve future harmful effects over and above those approved in the licence.

Parallel to the handling of specific projects there is a growing tendency in many countries to see all water management as one system. Greater importance is placed on an integrated approach, where you do not just scrutinize single projects but also try to attain a comprehensive picture of how different measures together affect the quality and quantity of water. Tests are made to assess the water base and pollution sources within naturally delimited areas - major draining areas for example - and on this basis plans and guidelines are established on how to handle water issues within that area.

French is one country which has been working along these lines in recent years. The new water management act implied the setting up of a number of river basin authorities. These basin agencies have all the river catching areas as the administrative delimitation. Each such organization is responsible for the long-term development of water resources within its region. They finance their activities through various kinds of fees. Industries and other sources of pollution thus have to pay a fee for the discharging of polluted water. The main part of the income goes to direct subsidies to projects for expanding and improving the water resources and reducing discharge of water pollutants.

England and Wales have also tried a system of regional organizations to deal with water issues. The River Boards Act of 1948 authorised the establishment of thirty-two boards based on the main draining areas. Within their regions the boards were responsible for issues such as pollution, water tapping and fishing as well of collection of hydrological data.. In 1963, their areas of responsibility were extended to total control and planning of the water resources, also including licence issuing for tapping for purposes other than household and irrigation usage. The Water Act of 1973 established ten regional water boards for England and Wales, responsible for supply and protection of water within their regions. None of these bodies is accountable directly to local administrations, but rather to national governments. There is consequently a certain danger that water planning will become isolated from other types of planning and their administrative implementation systems. But they open possibilities for integrated treatment and comprehensive planning of water issues. Discussions and trials concerning similar basin-based institutions are also found in several other countries.

In Germany the planning of water protection and management is at the *Länder* level more or less integrated within the general landscape programme which establishes the objectives for nature and countryside protection including the designation of protection areas, for example landscape protection areas and regional green spaces. As a rule, such programmes also include *Wasserschutzgebiete* (water protection areas). Similar designations can be found also in other countries in connection with regional and local planning.

Generally seen, landscape protection viewpoints have gained importance in

connection with water-power projects. In these the water level is considerably raised for large areas at the same time as the river below the power station loses much of its natural beauty. For this reason it is increasingly claimed that long-term programs are needed before further power stations are established. An example is Sweden where as a result of a national plan four main rivers were legally protected from any power constructions. Also in Norway a national plan concerning further water power projects has been drawn up following heavy protests against a large enterprise in the northern part of the country.

When it comes to implementation of planned measures, experience from many countries has shown, that various kinds of government subsidies to local authorities and private persons are vital to facilitate desired developments. This is particularly true for sewage treatment plants and suchlike. Another financial incentive may as mentioned be to impose fees on the discharge of environmentally hazardous substances, to be used in parallel with or instead of maximum limits for permitted discharge. The most vital control measure in this context is to introduce a compulsory permit system - usually combined with certain conditions - for all major operations involving water supply.

7. Commentaries

Before this presentation draws to a close, it should again be emphasized that the intention in the first place is not to show how physical planning and implementation function in reality and what actual influence they have, but to provide a survey of the means available to the society for steering, influencing and controlling the way the resources of land are developed and used and how the formal systems for this are built up in the West European countries.

Such influence and control have existed throughout history. Land has been a basic resource in all societies, and therefore also an object of particular interest. Whether we study the ancient, feudal, capitalist or socialist world the central and local authorities have tried to influence the disposal of land. Many different means have been used, sometimes of a more violent nature than those discussed in the preceding chapters. That society should regulate and control land use in one way or the other has seldom been questioned, neither earlier nor nowadays. Not least during the last century we have seen these ideas develop everywhere.

However, if public control extends too far, a number of negative side effects may arise. An extensive bureaucracy will develop, leading to more employees, delays in decisions and inefficiency. The controlling hand of the public sector is often less sensitive to needs, preferences and balances in society than a market formed by an unfettered commercial life. On the other hand, the market is primarily determined by the effect of processes on individuals and business without paying great attention to externalities, i.e. the repercussions on neighbours and society as a whole. Particular considerations of social factors are far from always taken. There are thus reasons for social intervention, reasons that will be reinforced through an increased emphasis on sustainable development. To find the right balance between public action/control and the market forces is a delicate question. A system of guidance and control that is efficient without being too expensive and which as far as possible is in concord with free development is thus to be desired.

It is evident that this is a goal in all the countries treated in this survey. There is a significant consensus of opinion when it comes to forming suitable systems for handling spatial planning and implementation issues. But there are also substantial differences. These have already been partly discussed in section 4.5. In this last chapter we will try to go a little further in a more general discussion of ways to solve some important issues when handling planning and implementation of land use and development. The following subjects will be dealt with:

- consistency and completeness in the established systems;
- institutional support and division of responsibilities;
- binding power at different levels;
- flexibility;
- integration and coordination;
- public/private participation and partnership;
- compensation.

7.1 Consistency and completeness

In all the relevant countries the spatial planning systems are nowadays based on the rational model of hierarchical planning. The final regulation plan which is to be

implemented shall not only consider local matters, it shall not be just a 'blue-print', but has to recognize the wider circumstances and relations which may influence the actual situation. This may be possible by planning at various levels. At the first level - which in practice is mostly the national level - you will find general laws and directives and often also programmes for a long-term development worked out in consideration also of other sectors in the society. Goals and objectives are discussed and clarified in a dialogue with institutions, regions and politicians. This then constitutes the framework for further and more detailed planning at a regional level in close consultation with representatives of relevant institutions and municipalities. Further plans may be made for sub-regions. Within that framework the local plans are worked out, as a rule starting with comprehensive and less detailed plans for the whole or greater area of the authority, which plans if needed are completed with detailed plans for specific development areas.

To build out systems according to these lines is a rather new development in most countries. Earlier, most physical planning was directed at existing urban areas or development areas, not at establishing frameworks which more or less covered total areas, including the countryside. Most planning laws also contained rules about master plans, intended to give a view concerning headlines of the development - usually in a greater area - as background and frame for the final regulation plan. But this instrument was as a rule sparsely used and then often in an informal way without a final approval.

The situation now is thus different as all the countries - anyhow in theory and according to law - have planning systems which include both framework plans for the whole or a large part of the area of an authority and regulation plans determining the development rights for a limited area. (The UK is something of an exception since the public plans have the character of a framework, whereas the final detailed planning is a private matter which then has to be approved by the local authorities.) In most cases planning laws also prescribe strategic or framework plans at different levels: at local, regional (provincial) and sometimes even at national level. Consequently, the planning structures are rational, in which main features and co-ordination issues are treated in outline instruments, which then provide the basis of successively more detailed plans. It is thus presupposed that the final development plan shall be worked out within a delimited 'planning area', where comprehensive framework plans shall solve co-ordination in a broader sense. This means that this framework should be worked out before the detailed planning and should also be well updated, something which is also often regulated in the law.

This is the ideal picture which is seldom completely realized in practice. The chain of successive plans may have gaps. This is not astonishing as in most countries the systems as such have rather recently been prescribed as more or less compulsory and their implementation of course requires planning resources. In many countries - like Portugal and Spain - comprehensive framework plans at local level are still not established within many authorities. In still more cases regional plans are missing. Sometimes they are not even prescribed in law. In Sweden for example only sector plans exist at regional (county) level as plans for hospitals and health-care, traffic plans, preservation plans, road and railway plans, etc. The elected Landsting or the State local representation Länstyrelsen tries to co-ordinate these different sectors in consultation with the institutions and municipalities concerned, but formal regional comprehensive plans are established only around the biggest cities for associations of the surrounding municipalities.

Existing gaps may also depend on limited planning resources and time. To build up a top-down system for all regional and local authorities will of course need considerable economic, technical and personal contributions. In developing countries,

the usual problem is that most authorities - perhaps with the exception of the bigger cities - do not have adequate planning resources to administer both detailed development planning and realistic framework planning. The solution is usually to concentrate directly on detailed planning. Nowadays, the West European countries normally have better resources. But still many administrations have a weak economic and personal base. This is understandable if the comprehensive overview planning is then given a rather low priority.

It is also a matter of time. If a complete and up-to-date hierarchical planning system is not yet at hand, and time-consuming objections against certain steps might be expected, it may not be possible to wait for it in a special development case. Several countries like for example Finland have in fact formal stipulations, that a detailed regulation plan can be processed even if there is no support from more comprehensive plans. To act otherwise can lead to serious drawbacks. Italy can serve as an example. There, the law has since long stipulated a hierarchical and rather detailed plan system. But too limited resources have been allocated to revisions, and the plans may therefore be out of date, at the same time as the stipulations are of a binding character. It has therefore been difficult to get realistic regulation plans for current development projects. The result has been that a great part of the development after the Second World War has been irregular and outside formally approved plans. The example underlines that there must be a balance between systems and resources, otherwise the system can be a hindrance to a suitable development. It must always be remembered that even framework plans with a long-term perspective must be reviewed with shorter intervals to be able to serve as a more or less binding base for actual development plans. Several countries have also inscribed in the law that regional or local comprehensive plans have to be revised within fixed intervals, e.g. 5 or 10 years.

The statutory planning systems are in main built up according to existing administrative boundaries. Sometimes, however, planning requirements have influenced the administrative structure. The local planning in England is thus based on a district division which to a great deal has been established to serve spatial planning purposes. And as part of the decentralization policies in France, new regions were established in a way which was not least suitable for planning purposes. A division in regions has also been made in Finland, mainly in order to constitute a suitable base for regional planning. It is furthermore rather common in several countries that a number of municipalities go together and establish a special organisation for spatial planning and sometimes even for other purposes. Also EU-supported regional projects are many times delimited according to boundaries of their own, sometimes even surpassing national boundaries. They lie to a great deal outside the regulated spatial planning system, but may in the long run influence it in many regions.

7.2 Institutional support. Division of responsibilities

If planning and implementation will function as supposed in law depends to a high degree on the institutions concerned, if they are strong and able enough to handle the tasks which the law has laid upon them. If we look around the world this is far from always the case. Not least in many developing countries it is common that spatial planning legislation is quite satisfactory, but that its application in real life has great limitations. This is in general not the case in the described countries. Mostly, they have found a satisfactory balance between the strength of the institutions and their duties within the planning and implementation system. But as the strengths varies it is not astonishing that there are different solutions concerning duties and power in connection with development matters.

As previously mentioned there has been a common trend towards decentralisation during the post-war period. In all the relevant countries the main responsibilities for physical planning nowadays lie at the local level. But the powers of the local authorities vary.

We can take some examples. Countries like the Netherlands and Sweden as an average have rather large municipalities with considerable power and resources. In Sweden this was established after the Second World War by putting together earlier municipalities. The number was thus reduced to one tenth and the local taxation power was increased at the same time as the municipalities got considerably widened tasks. In both countries the essential power to decide on local plans now lies in the hands of the municipalities, even if an approved plan must be sent to authorities at a higher level for control. It is however not possible for this higher authority to alter the plan without the consent of the municipality, they can just accept it or dismiss it on certain specified grounds. In these countries the municipalities have furthermore taken care of most of the implementation up to the building stage.

In France on the other hand the municipalities are as an average small. Partly, this is often counteracted by grouping several municipalities together, when it comes to local physical planning. To establish and accept a local plan is still a responsibility of the local authority, but the plan must be approved by the prefect, who not only has the power to dismiss it but who may also make changes. As a rule, small municipalities do not actively take part in the implementation but leave it to the private sector or possibly establish a public/private co-operation.

Also in a country like Spain the municipalities are rather small. But still more important is that many have a weak economic base and are dependent on support from the regional government. They may have the responsibility to administer the plan process and propose local plans. But the final approval lies in the hands of the regional government. The implementation is normally a matter for the private sector, even if public/private co-operation sometimes is established. The situation in Portugal is much the same.

Thus, as a rule there exists a reasonable correspondence between the strengths of the local authority and the division of responsibilities and power between local and higher authorities as well as between public and private involvement in the implementation. Naturally, much also depends on tradition and political views. If the principal lines of local development mainly should be decided at high or local level, if the public should be active concerning implementation or in principle limit itself to a controlling function, if detailed project planning and further implementation should be left to the private sector or not, etc. such decisions are to a great deal questions of tradition and policy and not only of resource questions. On the whole, however, the countries in question seem to keep a fair balance between the strength of institutions and their responsibilities in planning and implementing connections.

7.3 Binding power at different levels

Constructing a planning system at different levels has many objectives. It opens possibilities to collect relevant information from a wider area than is economically feasible in every single development case. It also gives better possibilities to coordinate the development lines for different sectors. Negotiation and conflict solutions may take place at the higher level. The same applies to consideration of future development policy and the most suitable areas and timetables for continued expansion as well as how adaptation to market forces should be handled. To establish a realistic knowledge basis of such and similar kinds to be used as support for local and more

detailed planning is a strong motive for a rational planning system built on several levels.

However, hierarchical systems also open a way to control, that the actual development in a satisfactory way follows the main lines of the adopted policy and that the intentions of authorities at a higher level are also considered by the authorities at a lower level. The steering role of the system is essential. Even if it will work in this way already by the material presented in the more comprehensive plans, it will probably be still more effective if these to a certain degree result in binding prescriptions.

The existence of binding regulations shall not be looked upon only as delimiting the freedom and power of the lower authorities. The production of higher-level plans and directives almost always includes a phase of consulting and negotiation with affected lower authorities and organizations. In one way the plan attains the character of a contract between the authority at a higher level and the authority at a lower level: if you just observe these limitations, then you are free to plan according to your wishes as long as you do not considerably damage legitimate interests of landowners or others involved. Several countries therefore make a distinction between approval of local plans in areas covered by a higher-level plan and local plans in areas without such a plan. In the former case the higher authority can only dismiss the plan if it breaks rules imposed at the higher level, whereas in the second case the plan as a whole must be considered and formally approved by the higher authority.

As a general statement concerning the actual countries, it may be said that while formal directives from the state and region normally are strictly binding, this is not the case when national, regional or provincial plans are concerned. It is expected that lower authorities follow them in the main. But at the same time there is as a rule room for discretion. This is a natural situation. At the higher level it is seldom possible to go into details, only to give main lines and recommendations for the future development of an area. But details can be important. So, if a lower authority at a closer study finds that a somewhat deviating development or land use is to be preferred, it should be possible to decide accordingly, unless the deviation is contrary to vital intentions of the higher-level plan.

But there are differences in the attitudes of the countries. As has been stressed before, England has given more freedom and more room for discretion. Denmark has taken another position. It has a strictly hierarchical system where formal plans on all levels are binding. A lower authority may not adopt plans which deviate from a higher-level plan without the admittance of the higher authority and only after the higher-level plan has been changed. This is however simplified, as it can be done as a supplement to the earlier plan and applied for at the same time as the lower level plan is sent for approval. Also in some other countries, like Luxembourg and Spain, any departure from a higher-level plan is viewed as a modification of the plan, which in principle must be carried out following the procedures used for the initial formulation.

If for example a regional plan is given a more binding status, it is important to know which elements have this status. Some countries therefore specify this. So for example the Flemish regional structure plan indicates a binding part, an indicative part and an informative part. Similar differences are found also in planning documents in many other countries. It is naturally important that it is clearly underlined, which parts of the planning prescriptions shall be more strictly binding ones.

While higher-level plans mostly are binding only on the authorities, local structural and detail plans are almost always binding also on individuals. There is a certain logic in this. When a local plan is prepared, the draft will always be locally advertised and time will be given to lodge objections. It is also important that in most cases landowners and other interested have a right to appeal. A binding local plan also

implies significant security that permits will be granted to develop land according to the plan. This is important not least for a proper valuation of each property, a base for taxation, marketing and mortgaging.

It can always be discussed to what degree plans at different levels should be binding on the continued planning and implementation. We have already had some discussion concerning this issue in section 4.5. Certainly it is important that higher authorities have possibilities to steer development, but to what extent? Is it only interests of considerable public importance that deserve to be secured, or should higher authorities also otherwise determine local development? Do local authorities not in fact have better possibilities to judge in matters close to them, provided that these not are of national or regional importance or must be co-ordinated at a higher level?

Even closely connected countries with rather similar basic conditions may give different answers to these questions. We have previously mentioned that Denmark has a consistent hierarchical planning system with binding plans at all levels, where substantial deviations from a higher-level plan not are allowed without a revision of this plan. The neighbour Sweden on the other hand has concentrated on directives how a sample of national and regional interest should be handled in planning connections but has otherwise no binding national or regional plans, only surveys of facts and trends of interest to future development and preservation. Necessary co-ordination between different sectors is established by consultation and negotiations between responsible sector institutions and national, regional and local authorities when this is required. The model gives a greater decision power to the municipalities, while there still is a feeling that proper consideration is also given to significant interests at higher levels. England is of course also a country where formally seen the binding effect of plans is low, but where in reality the influence from above on development is significant.

A certain risk with a strong binding power of plans - especially if these have rather detailed prescriptions - is that the system will be rigid and time-consuming to handle without providing any security. A rigid system might even increase the degree of unauthorised development as previously mentioned, notably concerning Italy, but also for countries like Spain, Portugal and Belgium. Often it may be better if higher-level plans and directives are binding only on points of great common interest but otherwise are documents providing useful facts and recommendations but leaving most decision powers to lower levels. This may increase the flexibility of the planning system. We will now turn to this issue.

7.4 Flexibility

Most plans, especially those of a strategic or framework character, will not be implemented immediately. In many cases a considerable time will pass between plan adoption and final implementation. Existing conditions may then have changed. It is further possible that when a planned development really starts a detailed project study will show that the plan is not quite suitable for an optimal solution from a public or private viewpoint. A deviation from the plan may be advantageous.

The possibilities to do this without changing the plan differ between the West European countries. Much depends on the degree of binding in the planning system. Some systems are rather rigid, at least according to the statutory prescriptions. We have earlier mentioned Italy as an example. But also in the Nordic countries, in Germany, Spain, etc., the stated rule is that only small departures from a binding plan are allowed and only when they are in accordance with the aim of the plan.

There are many good reasons for such an attitude. The plan has been prepared in

consultation with many authorities and organizations. The citizens have had opportunities of studying the draft and expressing their views and in most cases also of lodging appeals. It is then not satisfactory if some authority with regard to a permit application without further consulting decides to make departures from this well-prepared plan. To make such may also give room for suspicions of secret lobbying. Possibilities to deviate from a development plan against the will of the landowner, thereby causing him considerable damage, would furthermore be a threat against the real estate market. If you not can rely on development rights granted by a plan, there will be no security in the value of a property within the plan area.

On the other hand there must be some kind of flexibility in the system, especially concerning plans which will be implemented only in a long-term perspective. To go through an ordinary and time-consuming process of plan review in a case, where developer and authority agree that a certain deviation from an existing plan is to prefer, that apparently it will not damage anyone and that it is not opposed to the general aim of the existing plan, seems to be unnecessary bureaucracy. So what ways may be found to avoid it, if you still wish to stick to the principle of binding plans?

In the first place the following means may be used:

- to grant building permit authorities the power to allow exemptions from a binding plan - to grant exemptions under certain conditions;
- to allow simplified proceedings if it is only a question of modification of an existing plan;
- to avoid detailed planning prescriptions for plans which not will be implemented more or less immediately.

The first possibility is used in several countries. In Belgium for example deviations from an existing plan are possible concerning parcel size, appearance, construction works and in case of works of general interests. In Germany the permit authorities may grant exemption - *Befreiung* - from the provisions of a binding local plan, for example in relation to building height or building density. In Finland a landowner may apply for an exemption permit, if the deviation is minor. In Sweden formal exemption was also allowed earlier, something which was however abolished in the latest planning legislation. Maybe another way would have been to define more precisely under which conditions exemptions were allowed. Under normal conditions the exemption should be rather limited, it should not damage the intention of the plan or the neighbours and should furthermore be in accordance with the general interest.

The second way - a simplified proceeding for changing existing plan - is used by several countries. In France a modification of an existing local plan thus only requires the approval of the decision-making authority after a public inquiry. In Germany a simplified amendment procedure can be used, when the basic intention of the plan is not affected. In Sweden the same is possible not only for modifications but also when a detailed local plan is of limited importance, without interest for the citizens in general and compatible with the local structure plan. In Denmark an existing higher-level plan can be 'supplemented' in the same proceeding as a lower-level plan which in some way does not conform to the higher-level plan. Simplified modification proceedings can also be found in Italy, Ireland, Finland, etc.

Many of the problems arise, when a binding local plan goes into great detail but the implementation starts late or proceeds during many years. It then often happens that things have changed and that certain deviations would be advantageous. The same might happen when a project is worked out in more detail than was possible in the planning phase. A realistic way to increase flexibility is therefore often the third

alternative: not to go very deeply into detailed planning regulations, if full implementation lies many years ahead. Better then to concentrate on the general layout but save close regulations concerning buildings to the building permit. In the Netherlands thus there exists the possibility of establishing legally binding plans indicating only broad land uses, where the details can be fixed later. In Ireland zoning can be used as a way of providing more general rules for allowed land use. There are complaints in many countries - not least in Spain and Italy - that rigid regulations in old and un-revised plans have constituted a great hindrance for modern developments.

Flexibility is certainly important but must always be balanced against the advantages of a principally plan-led development, open to public and citizen control and giving a certain security to both landowners and the property market. Too simplified proceedings allowing deviation from binding plans may provide less security with regard to building rights and property values and also too much room for private secret negotiations without normal control from other public authorities and institutions as well as reduced opportunities for neighbours and other citizens to protect their interests. It is always a question of balance between flexibility and security.

We have the same problem in a wider context. How far shall it be possible for the authorities to change an existing plan, if the change causes damage to one or several landowners. Everyone knows that a plan sooner or later must be revised. This cannot always be done without diminishing the building rights for somebody or otherwise causing reduction of the market value of his land. To what degree is this allowed?

We refer to what has already been said in section 4.5 concerning this issue. In some countries, especially in those having a relatively new planning legislation, the problem seems not yet fully considered. But for the future it is necessary to find suitable legal solutions to the problem of handling old and unused development rights.

7.5 Integration and co-ordination

One problem in all these countries is how to best co-ordinate and integrate physical planning according to planning laws and regulations with planning and development of specific sectors or implementation of specific policies. In principle all aspects which influence physical development and land use should be considered in connection with national, regional and local physical planning and regulation. But in practical life this is an impossibility, since different sectors such as agriculture, forestry, water, roads, railways, environmental matters, etc., have their own institutions and their own planning and implementation instruments and proceedings, following separate acts. It is of course an ambition in connection with regular spatial planning to consult relevant authorities and pick up information on what is planned and going on within different sectors to the extent it has spatial consequences. It is further an ambition that by information and negotiation it shall be possible to arrive at co-ordinated solutions which can be accepted by the sectoral institutions as well as by the administrative authorities. This is a main reason for including strategic and structural planning instruments within the system instead of working only with direct individual project planning. But it is understandable that even if the resulting plan is binding on the administrative authorities according to planning laws, it cannot always bind the continued structure and project planning by sectoral institutions according to their specific laws and rules.

To integrate and co-ordinate the spatial plans and activities between different sectors is a considerable problem in all countries. In some it is especially pronounced. In for example Italy there is much complaint that different authorities and sectors work

rather independently of each other and that there are significant requirements for more intensive joint consultations. But the problem as such is general. Measures of different kinds have been tried to diminish the problem.

At the national level it is thus natural to work for a more co-ordinated legislation. In laws dealing with physical and other sectoral planning, mutual references may be included which state the necessity of cross-sector consulting but also to some degree regulating, if some kind of planning is binding on others. It may for example be stipulated that approved detailed local plans are binding on road planning within the area. As far as possible planning processes may be equalised, for example concerning the manner in which different plans should be displayed in public, the right of appeal, consideration of environmental conditions, etc. A further step would be to unify or at least include several planning instruments in the same law. It would thus be an advantage if alternative ways to authorise a development - for example the French instrument of *lottissement* and similar instruments in Portugal etc. - could be regulated in the same law as other prescriptions concerning development and in this way a certain conformity in regulations could be secured. Possible discrepancies always imply a risk that developers try an easier alternative to obtain public approval which might diminish citizen control. Recently, it has also been a clear trend in many countries to replace as far as possible many different planning laws and decrees with a single or a few acts.

Another step may be to gather interconnected measures within the same ministry. During recent years it is felt that spatial planning is strongly connected with environmental considerations. Many countries therefore have unified these issues within one ministry. Other countries have decided to unify spatial planning and development of main infrastructure as roads, railways, aircrafts, etc. within a single ministry, and so on.

Another administrative measure may be to create inter-ministerial institutions. Germany for example has established the *Ministerkonferenz fuer Raumordnung* as a standing conference of all Bund and federal ministers responsible for spatial planning, as well as the *Beirat fuer Raumordnung* as an advisory council made up of representatives and experts from the fields of supra-local planning, urban development, science, economic development, agriculture, nature protection, sport, employers and employee organisations.

In most cases, however, it is at the regional or local level that integration and co-ordination has to be carried out in practical life. At these levels structural planning is as a rule the main instrument. Its main objective is exactly to consider the needs and development goals and conditions of relevant sectors and then try to coordinate these in comprehensive plans. But in some countries these instruments are rather weak or incomplete and if they exist they are not always binding on the running work and the sectoral decisions. There may be need of complementary ways.

A suitable instrument for increased integration and co-ordination of different sectoral planning activities at regional level may be a regional institution, which has to be consulted in every case of such major decisions which influence several sectors or municipalities. It may have the power to abolish a decision and return the question to the authority concerned. But even if it is only consulted, its answers may carry such weight that it can exercise a considerable co-ordinating influence. In Sweden for example, there is a *Länsstyrelse* in each county - a state institution which according to the law must be consulted i.a. in planning matters and decisions with considerable spatial influence, especially when more than one sector or authority is involved. It has controlling functions and has the power to abolish plans and decisions and return the case for new treatment in certain cases, while in other cases its advice and viewpoints have a considerable weight. But it has also direct co-ordinating functions i.a. con-

cerning infrastructural plans and projects of regional interest and has a responsibility to summon interested parties and to try to find a common suitable solution. As the formal regional planning is not very developed in Sweden, it serves a highly useful purpose in this context. The *Comissoes de Coordenacao Regional* in Portugal has a somewhat similar function, a regional decentralized service of the ministry responsible for physical planning. Their main objectives are the co-ordination of development interventions at the regional level and the provision of technical and administrative support to the local authorities. Similar regional institutions also exist in several other countries, sometimes responsible also for regional planning, sometimes with co-ordinating and consulting functions without direct responsibility for regional planning. Anyhow, the existence of a vital institution at the regional level with special responsibility for bringing together and adapting plans and activities of different authorities is probably the most important condition for a wider integration and co-ordination between different sectors.

At the local level there is seldom any need of a specific instrument for co-ordinating plans and activities. Certainly it is most important that the different local committees and departments work according to common lines. But given the close contact in space which they normally have, co-ordination is more a matter of good leadership, good internal information systems and suitable routines than of building up specific formal organizations. Co-ordination is furthermore established in connection with local planning since the laws usually prescribe that consultations with relevant sector authorities, organisations and citizens must be taken in the planning process. Also in connection with building permits, not only certain consultations may take place but there is often also the question of formal permits from other authorities (environmental, heritage, etc) which must be submitted at the same time to get a building permit.

7.6 Public-private participation

As described earlier, there is a certain conformity among the countries concerned to the effect that the physical planning of the society is principally a public responsibility. Organizations, owners, developers and other citizens may be involved, may give their contributions and viewpoints, may make their representations and objections, and may appeal against the plans. Developers may also make the basic investigations and even present outlines of possible plans. But the formal handling, the start of the statutory process, contacts and consultations with authorities and others, studying of preconditions, accepting of a draft, organizing public examination and finally approval of a plan always lies in the hands of public authorities. The processes themselves may differ somewhat but in the main they have a similar structure.

The differences mainly appear when it comes to implementation. Where should the boundary be drawn between planning and implementation, who takes the initiative or brings about the start of implementation, to what extent will the public be involved in further procedures, who will stand the costs, etc?

Here we have significant differences. We have countries like England and often France where the public planning seldom goes further than to the structural plan of the whole district or the whole community and where the continued public activity is mainly directed at control and not at participation. We have countries like Germany where the public usually continues its planning down to a detailed land use and building plan and maybe takes responsibility for infrastructure, but where further implementation is mostly left to the private market. And we have countries like the Netherlands and Sweden, where the normal way - at least earlier - has been for the

local authority not only to plan in detail but also to co-ordinate planning and implementation by deciding where and when land should be planned and exploited. In most cases public implementation continues in these countries by acquisition of land, establishment of infrastructure and service and then by selling or renting the finished sites to private builders. In Sweden also a substantial part of rented buildings has been constructed by municipality-owned companies.

However, more or less irrespective of these differences there have in all countries been trends to increase the influence of organizations, owners, developers and other citizens on planning as well as implementation matters. This does not necessarily mean that the public diminishes its influence on development processes, but rather that more space is left for public-private participation.

Some participation is a normal part of the planning process. At the national and regional level it is mostly a matter of consulting and discussing with organizations of different kinds in connection with legislation or national or regional directives or plans. When it comes to local planning, however, a more direct participation with the private sector can take place. It may begin already early in the planning process. If the development area belongs to only one or very few owners, it is normal that negotiations are initiated between the planning authority and the developers concerning the main features of the development such as density, height and type of buildings, green areas, participations in costs, etc., already before the official start of the planning process.

Usually, there is a framework for the design of the area in the form of comprehensive strategic plans, plan programme or other formulated guidelines. Within this framework, there is normally considerably space for manoeuvre concerning the degree of exploitation and detailed use of land. If the framework is not too detailed or does not have a too binding nature, the space for negotiation may be considerable, which in itself can be advantageous and make the planning system more flexible. The desires of the developers are usually an increased degree of exploitation and right to build, whereas the public usually demands increased inputs by the developers. The public may also want environmentally friendly or socially directed measures as well as the preservation of buildings of cultural interest. Generally, the authorities are also interested in determining the period of implementation of the project and sometimes also set limits for permissible plot prices. When major exploiters are involved, negotiations as a rule result in formal contracts or planning and development agreements as earlier discussed in section 5.4. Such contracts may regulate not only the degree and type of exploitation but also the participation from the developer with regard to development costs and perhaps also to his engagement in the actual establishment of the infrastructure within the area and a timetable for the implementation.

Negotiations of this type are necessary when main areas of private land are involved and are normal in all the countries concerned. There is a certain tendency that they recently have been even more pronounced as links in a more market-oriented approach and in efforts to increase the degree of public-private participation, which as such mostly is looked upon as something desirable. A certain agreement on principles is usually reached already at an early stage. From the perspective of the developer, it is important to know that the project is acceptable and that the outcome will be satisfactory, before he devotes too much time to plans and preparations. But formally the agreement is usually not signed until directly before the adoption of the detail plan, since the very process of planning may affect the design of the plan and thus the substance or preconditions of an agreement. There is of course a certain danger that a deep and early negotiation process between the public and main developers may entail reduced real influence on the part of the other parties concerned, that the plan in effect

will be rather fixed and rigid, before it has run through the required review process. Therefore, there ought to be a certain balance between what is agreed beforehand and what can still be influenced in the following formal plan procedure.

When the planning area is dominated by small holders, formal negotiations are of course more difficult to establish. But it is still important that the landowners involved are well informed and perhaps also consulted already at the programming stage and later during the process, even if this to a certain degree may complicate the proceedings and even if the law only prescribes one public inspection before the plan is adopted (but as previously mentioned, a country like Finland has prescribed that there must at least be two opportunities for inspection by owners and other citizens before the plan is adopted). But also then the owners will nowadays mostly be obliged to take part in the implementation costs and sometimes also the planning costs, not under any agreement but generally according to prescribed taxes.

In all the countries the main role of the public in this context is focused on providing of plans, infrastructure and public service while the further implementation often is left to the private sector. But as has been described earlier there are many differences between the countries, some with a tradition of much public involvement, some with concentration on control. However, a tendency in recent years has been, both that the former countries accept more private and market-led involvement/participation and that the latter finds it necessary and suitable to include more public activity in the process. So, from both sides the development process will probably include more public-private partnership and participation in the future. To find suitable forms for these for the future is therefore an important issue in most countries.

7.7 Compensation

Generally it might be said that in all the discussed countries there is relatively little space for public compensation to land owners/developers because of claimed damages in connection with plan and implementation prescriptions and activities. Naturally, if land is acquired by the public for development purposes a price usually has to be paid. But even then the public may claim that land intended for streets, water courses and other public places should be left without payment. This is a normal case when the local authority and a major developer agree on a project. But it may also happen in other connections such as within the German Umlegung proceedings and also in the way that a site owner has to pay a certain tax to the municipality for a required street area. Otherwise, compensation is seldom paid for reduced property market value because of a new or changed plan, a decision concerning building permit etc. The main reason seems to be a traditional feeling that the individual to a certain limit has to accept some inconveniences on his own part, if the public can show that it acts in the common interest.

Some countries try to define such limits in law while others accept them as a silent precondition. If for example an area plan results in a considerably reduced value for someone, this may constitute a reason for appeal to the effect that the plan should be rejected or changed. The same might be possible if a building permit is denied or if a building permit granted to a neighbour causes damage to own property. But if the appeal is not successful even if the damage is obvious, compensation will seldom be prescribed in law.

There are however exceptions. It has been mentioned earlier that if a German local plan is changed or annulled within seven years and this causes damage because of for example reduced building rights, then the owner has a right to compensation. The same

is the case in Sweden if a plan is changed or annulled within the prescribed implementation time of the plan. There, it is also possible to claim a certain compensation if the plan prohibits demolition or prescribes special preservation rules for certain buildings and this causes considerable damage because of reduced property value. Even in the Netherlands an owner may claim compensation if a new plan results in reduced building rights, if not too long time has passed since the plan was adopted. Also in Belgium compensation may be claimed under certain circumstances, if a decision based on plan causes economic damage.

In most countries there is no possibility of compensation because of a refusal or grant of building permit. In Ireland, however, compensation may under certain conditions be claimed if the decision results in loss of value for a property. In Germany and France compensation may be paid, if it is proved that the decision was illegal. In Sweden compensation is possible, if the owner is denied to replace a demolished or destroyed building with an equivalent one. Also, if he is forbidden to make certain ground works he may be compensated.

It may however be seriously discussed if possibilities to compensation ought not to be increased, both in connection with plan adoptions and permits of different kinds. It will make it possible to accept desirable changes in older plans from a common viewpoint, even if they cause considerable loss of value for somebody as well as providing more space for discretion and less binding of formal legal prescriptions in the handling of permit cases. Seen in this way compensation is a means of increasing development flexibility without seriously damaging single owners or other holders of property rights. As we probably have to expect even faster changes in planning and building conditions in the future than during recent decades, increased flexibility while still protecting existing rights is a most valuable feature of the planning and development system.

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Appendix 1

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Country descriptions

General

The following sections of appendix 1 present summarized descriptions of the spatial planning systems in the chosen countries including implementation instruments. They are primarily based on the material collected in the EU Compendium of Spatial Planning Systems and Policies, published by the European Commission as number 28 in its series 'Regional development studies'. The compendium consists of national reports from 15 EU-countries, a comparative review and three thematic volumes with case studies. Appointed sub-contractors were responsible for the country volumes - personally, I had thus to prepare the Swedish report. The volumes on systems and policies provide a description of the institutions and mechanisms for plan-making, regulation and the implementation of policy at national, regional and local levels as of 1 January 1994. Each report follows the same broad format but the different volumes may vary between 100 - 200 pages. The Norwegian Building Research Institute has published a similar volume.

This compendium imparts a thorough knowledge about the formal systems used within the EU- countries in the middle 1990s, even if it can only touch on the problem how these regulations are applied in practical life. But as they together have a considerable volume the information may be a bit heavy for an ordinary student who does not concentrate on a single country. It has therefore seemed appropriate to summarize part of the information provided for the countries chosen in this appendix, with more focus on planning-implementation systems and measures than on policy matters. Of course a summary will limit the total picture. But the reader who wants a more comprehensive knowledge may go to the compendium itself.

As the information in the compendium refers to conditions prevailing in 1994, it has seemed important to update the descriptions. The produced summaries have therefore been sent to the appointed contact person in each country with a question whether there is something in the description that does not apply to the situation in 2004. After having received the answers the descriptions have been corrected according to the submitted information.

It is always a delicate question to try to express more exact information in own words. The risk is that the translation and interpretation of what is originally said will not be quite correct. We must remember that the information in the compendium is thoroughly scrutinized by the working teams and by sectoral higher authorities and not should be changed or misinterpreted. As far as possible I have therefore used the very wording in the different reports even if naturally some editing and much selection has been necessary. I think this method increases the reliability of the summaries and is justifiable as the reports expressly authorize reproduction provided that the sources are acknowledged. On the other hand this will mean that the style and way to express oneself may differ somewhat between different country descriptions. Also the focus and depth of information concerning details may of course differ. I hope that the reader will consider this before going over to the following country descriptions.

The figures are taken from the Compendium if not said otherwise.

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Belgium

1. Administrative structure

Until the mid 1970s Belgium was a tightly organised central State with three levels of political and administrative government. Between 1970 and 1993, the Belgian unitary state evolved towards a federal state, where the sovereignty is divided between the Federation (national government), Regions and Communities, each with their specific responsibilities and powers.

At the federal level the legislative power belongs to the Parliament, consisting of the Chamber of Representatives with 150 elected members and the Senate with 40 directly elected and 21 elected representing the Flemish, French and German-speaking Councils, while 10 other members are co-opted. Since the constitutional reforms, spatial planning is exclusively the responsibility of the Regions. Consequently, at the federal level no institution has direct influence on the spatial planning.

The federal system consists of two types: the Regions and the Communities. Each type is responsible for a different set of government domains. Basically, language-related and person-related matters are translated to the Communities, while economy-related and territory-related matters (such as spatial planning and environmental policy) are related to the Regions. The three Regions (the Flemish, the Walloon and the Capital of Brussels) and the three Communities (the Flemish, the French and the German-speaking) cover different territories, overlapping each other.

The legislative bodies of the *Regions* are the regional councils. The regional councils are entitled to determine freely the spatial planning in their region by issuing Decrees or Ordinances. The executive powers of the regions are the regional governments. The regional ministers are appointed by the regional councils. A regional government has explicit power in spatial planning. All three regions have an Administration of Spatial Planning and Housing (ASPH). Beside spatial planning and housing the ASPH co-ordinate monuments and landscapes, spatial planning actions of local authorities and urban renewal. They are also responsible for the implementation of decrees and regulations of policy within their sphere of influence. Plan preparation involves the participation of other departments (such as transport, environment, economic development, energy), which have to be consulted under the planning procedure. Transport matters are dealt with by the Regional Administration of Transport while environment matters are dealt with by the Regional Environmental Administration.

Seven regional advisory commissions (RAC) are active, one for each of the five planning regions in the Flemish Region, one in the Walloon and one in the Brussels Capital Region. The RAC have an advisory role in the review of sub-regional plans. To that order they must be informed of the progress of the preparation studies and all preliminary plans. Furthermore, they can be consulted by the regional government on all spatial planning and development matters. The RAC consist of representatives of the different government authorities, representatives of the main interest groups and planning experts.

The Flemish and Walloon regions consist of 5 *provinces* each. The provinces have a double responsibility. Firstly the province is entitled with tasks of central government. The provincial level takes - in the name of the central government - decisions or actions with regard to for instance environment permits, building permits and parcelling permits appeals etc. Each province has an appropriate spatial planning department. The main function is to examine permit-related appeals and to make recommendations to the permanent deputation - the executive body of the province consisting of the governor and six members - as to decisions to be taken.

The Belgian system of local government comprises of 589 *municipalities* with a population varying from almost half a million down to 100 inhabitants with an average of slightly less than 20 000 inhabitants. Each municipality has a municipal council, consisting of councillors, mayor and aldermen. The executive body is the council of mayor and aldermen, the last elected by and from the council. The municipalities have specific competence in the domain of spatial planning. The council adopts plans and municipal building and parcelling regulations, subject to the approval of the regional government. The council furthermore decides on all permit applications, involving the construction of new roads or the alteration of existing municipal roads. Each Flemish municipality with more than 10 000 inhabitants is further required to have a municipal advisory committee which i.a. has an advisory role in the formulation of municipal plans. Each municipality also has a technical spatial planning service. As instruments of local democracy the municipalities play a much more important role than the provinces.

2. Legal development

In order to come to a systematic reconstruction of their war-damaged area, during the First World War (1915) and after the Second World War (1946) legislation was passed obliging the municipalities most affected by war to draw up destination plans. Both Acts were valid only for a limited number of municipalities and were not successful.

In 1962 the first Spatial Planning Act covering the whole country was adopted. It gave the national government the legal instruments for the physical planning of the whole territory. It intended the drawing of following plan types:

- a national plan, which however never was put into operation;
- *streekplannen/plans regionaux*. The 1962 Act contained provisions for several planning regions, initially 20, which later were reduced to seven. For each the planning regions extensive studies were prepared but no plan as intended by the Act has been designed;
- *gewestplannen/plans de secteur*. A sub-region is a planning entity, which does not correspond to a political-administrative entity. A sub-region covers an area larger than a municipality but smaller than a province. 49 sub-regions have been identified. For each of them a sub-regional plan has been prepared, formulated and later adopted by the central government;
- according to the 1962 Act two levels of plans were provided within the municipalities: a municipal land-use plan, covering the whole territory, and a sub-municipal land-use plan covering a part of the municipality.

Although all sub-regional plans and many municipal plans were drawn up, implementation was weak because of lack of financial resources.

Currently, the planning system is in a period of transition. Having obtained autonomous planning power, the three Regions have adopted new planning systems. Each region is following a different course of action, which will be closer described below.

3. Planning structure

Until 1996, the *Flemish Region* used the 1962 Spatial Planning Act, although the *streekplannen* were not pursued. The highest level in Flanders was the *gewestplan*. At the municipal level both the municipal and sub-municipal plans were used. The Decree of 24 July 1996 offers a legal basis for the *Ruimtelijk Structuurplan Vlaanderen* (Spatial Structure Plan of Flanders) as well as for the provincial and municipal spatial structure plan, new plan types that did not form part of the 1962 legislation. The 1996 Decree introduces a three-tier planning system granting planning competence to the regional, provincial and municipal level. Each level uses two kinds of plans: the spatial structure plan and the destination plan (*plan van aanleg*). The first contains the vision of the use of space, while the second contains regulations. At the regional level the structure plan balances and sets priorities for numerous sectorial considerations and interests. It focuses on four main structural elements: urban areas, regional employment areas, open space and infrastructure. Further, only the regional government is entitled to decide, whether an existing sub-regional plan according to the 1962 legislation needs reviewing. In Flanders as well as in the Walloon region such a draft plan is designed by the Administration of Spatial Planning and Housing. At the local level both the municipal structure plan and the municipal destination plan is in Flanders covering the whole municipality. According to the law a destination plan must contain specific elements (imperative contents) and can contain other elements (optional contents).

In the *Walloon* region all Acts, Decrees and regulations concerning spatial planning applicable to the region have been codified and centralised into the 1984 *Code Wallon d'Aménagement du Territoire, de l'Urbanisme et du Patrimoine*. The Act developed a two-tier system which concentrates on the regional and municipal level. At the regional level the *Schéma de développement de l'espace régional* is a regional structure plan which intends to define strategic goals. It has pointed out three important planning aims: to promote the Walloon cities, to redefine territory and a way of life for the rural areas and to design development projects for dynamic areas. At the intermediate level the *plans de secteurs* have been retained, making them the highest planning level containing land-use regulations. At the municipal level the municipal land-use plan of the earlier law has been replaced by a municipal structure plan (*schéma de structure communale*), covering the whole municipal territory and determining the conditions for municipal development projects. The *schéma directeur* (guiding structure plan) is a guiding document which amplifies the destination of a part of a municipality.

The *Brussels Capital Region* has developed a two-tier system (regional and municipal level). Two types of plans are provided for both levels: the development plan (*ontwikkelingsplan/plan de développement*) and the land-use plan (*bestemmingsplan/plan d'affectation*). The municipal structure plan covers the whole territory and is

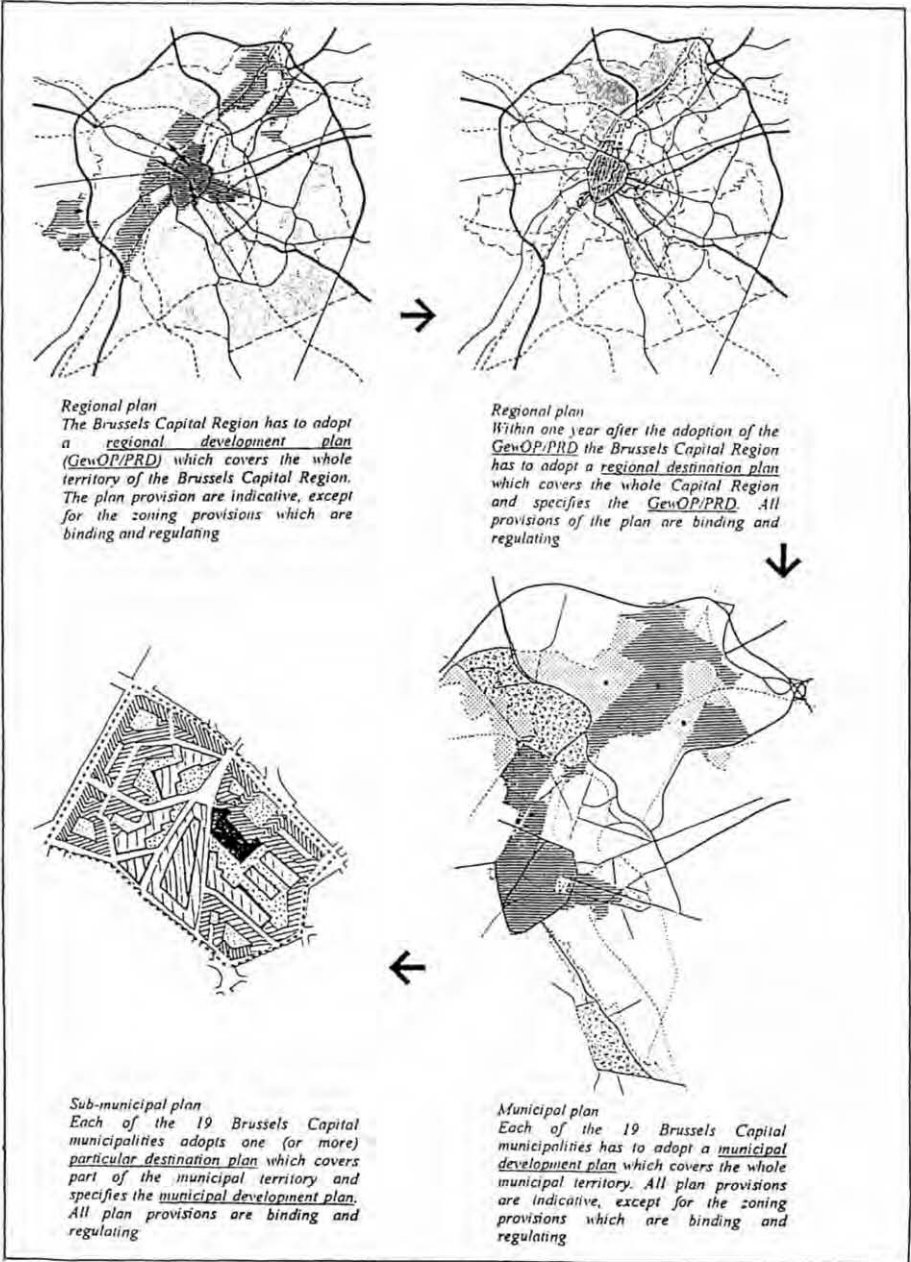


Figure 9. The planning system in the Brussels Capital Region

a structure plan containing development objectives, action schemes, priority areas and the general destination of the different areas. It further contains regulations and aesthetics (figure 9).

All regions have a sub-municipal land-use plan (particular destination plan). Such a plan must contain a description of the existing situation, a detailed description of the areas covered, roads trajectories and changes intended and a list of regulation concerning the location, the size and the type of the new buildings. It may also contain regulations concerning the equipment of roads and plantings and a description of the areas intended for the layout of green areas, forests, sport fields, and monuments, public buildings and cemeteries.

4. Process

In *Flanders* the project of the *Ruimtelijk Structuurplan Vlandereen (RSV)* started already 1992 but got a legal basis only in 1996. A draft plan was devised by a group of experts and almost fully taken over by the Minister of Planning. It was later on adopted by the Flemish Government and for the binding part by the Flemish Parliament.

The provincial structure plan is initially developed by the permanent deputation of the province. After advice from the regional commission of advice, the provincial council temporarily approves the plan and informs the Flemish Government of the plan. Next, the plan design is submitted to a public inquiry. Possible comments of citizens, of municipal councils, of permanent deputations of adjacent Flemish provinces and of the Flemish Government are collected and studied by the regional commission of advice. The plan is then adopted by the provincial council. It must be approved by the Flemish Government.

The municipal structure plan is initially developed by the council of mayor and aldermen. After advice from the municipal commission of advice, the municipal council temporarily approves the plan and informs the permanent deputation and the Flemish Government of the plan. Next, the plan is submitted to a public inquiry. Possible comments of citizens, of municipal councils of adjacent Flemish municipalities and of permanent deputations of adjacent Flemish provinces are collected and studied by the regional commission of advice. In case there is no provincial structure plan, the Flemish Government also has to give advice. The municipal structure plan is adopted by the municipal council. In case there is a provincial structure plan the permanent deputation must approve the plan. When there is no provincial structure plan, the plan must be approved by the Flemish Government.

Concerning the municipal land-use plan - the destination plan - the municipal council chooses a planner approved by the minister. After the draft plan, developed by the planner, has been provisionally approved by the municipal council, a consultation procedure is organised which is co-ordinated by the committee of mayor and aldermen. Interested citizens can consult the draft and object. The draft plan is then submitted to the municipal advisory committee and some public institutions defined by the regional government. The provisional plan is so resubmitted to the municipal council together with objections and recommendations. If the council modifies the plan a new public inquiry is held and the advisory committee provides a new review. Once the plan is approved, it is sent to the permanent deputation and then forwarded to the regional government for approval.

A structure plan, covering the whole territory, is also prepared in the *Wallon region*. The regional government is responsible for the first draft. Once the regional government has adopted the draft version, the Walloon citizen can examine the draft plan during 90 days and send their possible comments and objections to the governor of the province, who is responsible for the co-ordination procedure. The permanent deputations and the municipal councils then have 60 days to comment on the draft. The whole dossier is so sent to the regional advisory committee which will make recommendations. Based on the objections and comments, the regional government reviews the draft plan and adopts the final plan.

The municipal structure plan in the Walloon region is based on extensive consultation between the municipal authorities, citizens and interest groups. The municipal council appoints a public or private organisation or consultant to develop the draft plan. In this phase, the municipal advisory committee is informed of all preparatory studies and can suggest ideas. The draft is then presented to the public who have 30 days to comment. Parallel the draft is presented to the delegated official who also comments within 30 days. The draft plan and all comments and objections are then sent to the municipal advisory committee which has to comment. Based on these comments, the municipal council may then adapt the draft plan and adopt the structure plan. It is so sent to the regional government which can nullify the plan.

Concerning the sub-municipal destination plan a similar procedure is used in the Walloon region as in the Flemish region.

In both the Flemish and the Walloon regions it was as mentioned possible according to earlier law to establish sub-regional plans for a planning entity formed by several municipalities. Once adopted such plans remain in force until modified. Only the regional government is entitled to decide whether such a plan needs reviewing. The draft plan is in such a case designed by the Administration of Spatial Planning and Housing and submitted to the regional government minister through the central administration, which may suggest changes. The minister then approves the plan provisionally. The citizens of the municipalities involved can then consult the draft and send possible objections to the governor of the province. The permanent deputation and the municipal councils can so make recommendations. The whole dossier is thereafter submitted to the regional advisory committee for comments. Based on all objections and comments the regional government adopts the final version.

Also in the *Brussels Capital Region* a regional development plan is established. The regional government is responsible for the first draft. Once the government has adopted the draft version a consultation and revision procedure starts. During 60 days the citizen of the region can consult, comment and object the plan. The 19 Brussels municipal councils and advisory committees have another 60 days to comment on the draft. The dossier is then sent to the regional development commission who will make a recommendation. Being confronted with the objections and comments of citizens, municipal councils and the regional development commission the regional government reviews the draft and adopts the final plan.

The earlier sub-regional plan of the Brussels region shall according to the new Acts be replaced by a regional destination plan, containing a detailed description of the existing use of land and identifying the general destination of the different areas. The procedure is similar the one used in the Walloon region concerning revision of earlier sub-regional plans.

Municipal development plans are also established according to a similar procedure as in the Walloon region. The plan is preceded by a basic dossier containing goals, priorities and the financial or other means intended for the plan. The difference with the Walloon plans is that this dossier must go through three consultation phases: a public inquiry, advice of the regional development committee and the approval of the regional government. Once the municipal council adopts the draft plan, it is subject to similar consultation phases: a public inquiry, advice of the municipal advisory committee and the regional development commission and the approval by the regional government.

Concerning the process of the sub-municipal (particular) destination plan there are differences between the regions but the principles are similar. In the Flemish and Walloon regions similar procedures as for the Flemish municipal destination plan are applicable. In the Brussels Capital Region similar procedures as for the municipal structure plan are applicable.

5. Legal status

In the *Flemish Region* the regional structure plan contains a binding part, an indicative part and an informative part. It forms a policy guideline for all regional, provincial and municipal planning initiatives. The binding chapter is binding only for government (administrations, institutions, etc.) and not for the citizen. He can however use it against the government if the government would refrain from implementing the plan.

The provisions of the *gewestplan* (sub-regional plan) are binding and regulating in the sense that the plan regulations have a binding power both on the government authorities and citizens.

The provincial spatial structure plan contains binding regulations, indicative elements and an informative part. The same is the case with the municipal structure plan.

The municipal destination plan (*algemeen plan van aanleg*) giving general destination of areas, road net, etc. is binding. The particular destination plan (*bijzonder plan van aanleg*) covering only a part of the municipality must contain specified elements and can also contain other elements. The specified elements are binding and when the optional elements are approved, they also acquire binding and regulating power.

In the *Walloon region* the Development Scheme for the Regional space contains also both binding and regulating provisions and indicative provisions. It forms the framework for decisions with spatial implications, including transport and communications, natural and cultural heritage, housing, economic activities, tourism and social and sanitary equipment.

Also in the Walloon region a sub-regional plan is binding for both public authorities and citizens. They are essentially zoning plans and are in many cases so detailed that they more or less replace the municipal destination plans.

The municipal structure plan (*schéma de structure communal*) is a guiding document and is binding for all developments initiated by the municipal authorities. If a private person initiates a development which is partly financed by the municipality, he is also required to act according to the plan provisions. The plan is indicative for all other developments. The same is valid for a *schéma directeur*, similar to a mini municipal structure plan and covering only part of the municipal territory. A particular

destination plan has a similar legal status in the Walloon region as in the Flemish region.

In the *Brussels Capital Region* the regional development plan does have binding and regulating force concerning the destination of land (zoning). The plan is, however, only guiding for other provisions, except for the government. The regional destination plan, also covering the whole region, is a more detailed description. The plan has legal and binding force concerning all its provisions. It replaces the early sub-regional plan of the region.

The municipal development plan, which specifies and amplifies the regional structure plan and regional land-use plan, is binding and regulating on the government and citizens concerning all provisions on zoning (destination of land) and is indicative in all other provisions, except for the municipal authorities. A particular destination plan has also in the Brussels Capital Region a similar legal status as in the Flemish region.

The expression 'binding' should however not be interpreted too strict in Belgium. There is still a substantial possibility for discretion and deviations from approved plans which will be further discussed in connection with building permit.

6. Implementation and control

Regulations established by the planning system are mainly restrictive. Theoretically the land-use plans ensure that undesirable development does not occur. But on the other hand the planning system is not able to ensure that desirable development actually happens at the right place and at the right time.

One of the main problems of the spatial planning system is also the gap between law and practice. The Belgian planning systems are strictly regulated but loosely implemented. This reality is caused by several elements. The impact of the economic expansion in the 1960s and 1970s led to a strong pressure on the existing open space and the planning system was not able to deal with this enormous demand. There has also been a rooted tradition of clientilism by politicians to their voters, sometimes lack of independency of the officials to carry out their supervising functions at the same time as the supervising machinery often is understaffed. Especially, illegal weekend residencies have been common.

In order to be able to realise planning policies, the Regions and the municipalities can allocate public sources in a way which is attractive for private development. The public sector intervenes actively and directly in a limited number of sectors such as major infrastructure works intended for further development and economic growth. In other fields, such as housing for instance, governments intervene less directly, defining the legal framework, providing incentives and managing the social housing. In line with adopted plans, public authorities can purchase land intended for spatial urban development. In specific cases the public sector can also expropriate land to realise its planning objectives. EU funding for major infrastructure, development and environmental schemes in areas which are lagging behind or which are suffering industrial or rural decline is becoming increasingly important.

Municipalities are generally not able to fulfil all their tasks and responsibilities in a fully independent and efficient way. For example, electricity and drinking water distribution or the collection and processing of household waste require substantial

investments and specific skills. To organise the services in an efficient way, municipalities are allowed to cooperate: *intercommunales*. An inter-municipal co-operation is based on a legal framework agreed upon by all the involved parties. A private partner, such as a private electricity producer, can form part of such a co-operation. Regional housing corporations, supervised by the regional Minister for housing have also been created. They are responsible for the construction of working-class houses that will be rented or sold to persons on low income. They can also grant loans for building and improvement of houses. The proportion of the social rented sector is however marginal, about 7 % of the total housing stock and less than 20 % of the rental sector.

Mainly, however, the planning intentions are realised by private developments, still under public control. Private developers can take initiatives to particular destination plans, even if the process and adoption is a municipal responsibility. They can further apply for permits of different kinds. One type of permit concerns division of land. A *parcelling permit* is thus required to divide a particular area in several individual lots. The main elements of the parcelling procedure are similar to that of the main type of permit, the *bouwvergunning/permis de batir* (building permit), in the Brussels Capital Region called *stedebouwkundige vergunning/permis d'urbanisme* (urban permit).

A building permit is required to build, rebuild or demolish a fixed construction, change its destination, change the relief of the ground, deforest, cut down isolated trees, exploit or change heaths and moors, fit up a terrain as depot for used cars or scrap, install one or more movable constructions which could be used as residence, etc. These obligations apply to both private and public developers. The word 'building permit' is thus a collective noun for widely divergent actions. The different types of 'building' permits are similar but can require different supporting documents or extra procedural elements.

In general an application to build a construction must be made in writing on a statutory application form to the council of mayor and aldermen and contain necessary elements such as certificate of the architect who designed the construction, drawings and plans, photographs of the building site and of the adjacent buildings, questionnaires for statistical purposes and in specific defined cases an environment impact assessment. When the works have a certain size a short public inquiry is organised. The application will then be tested against the conditions contained in all approved plans and building regulations affecting the site but also against considerations of good spatial planning, provisions of parcelling and building regulations. Deviations from the municipal plans are possible concerning parcel size, appearance, construction works and in case of works of general interest. When there is a particular destination plan or a valid parcelling permit the development proposal in the first instance is granted by the council of mayor and aldermen. The decision has, however, to be approved by the delegated official, a representative of the regional government. If the delegated officer suspends a given permit, the suspension has to be approved by the minister responsible for spatial planning. When no particular destination plan or parcelling permit exists or when a deviation from the plans is asked for, the dossier is before the decision sent to the delegated official who has to give a binding advice to the municipality, also including conditions on the permit and even deviations from existing regulations. In case of a positive advice from the delegated officer, the municipality can however still

refuse the permit. When the proposed development affects a listed building, landscape or townscape, a special procedure takes place, including advice from the administration or regional minister responsible for the matter.

The law makes provisions for a double appeal procedure. It can be lodged against the refusal or the granting of a permit as well as against the conditions imposed on the grant. If the basis is on the ground of the technical planning correctness of the decision, the interested parties can appeal to the permanent deputation (first phase) and to the regional minister responsible for spatial planning (second phase). If after the permit processing procedures one of the parties claims irregularities, an appeal can be lodged with the State Council (administrative court). Also, if one of the interested parties feels that his civil rights have been violated, a judicial appeal can be lodged with a civil court.

7. Renewal, heritage, environment

Urban renewal is a regional competence and concern. This concern is reflected in the regional development plans. The principles will be implemented by building regulations, programmes to make the cities attractive and partial development plans. In all three Regions special urban renewal areas have been identified. These areas can among others receive financial assistance (project-oriented subsidies) for the renewal of some quarters. One of the main issues is the re-use of neglected industrial buildings and areas within the inner city. For instance, the Flemish 1995 Decree on the Prevention of Unoccupied Industrial Space requests the municipalities to draft an annual list of all unoccupied industrial buildings. An annual tax is levied on these, of which 20 % goes to the municipality and 80 % to a regional renewal fund. The fund will be used for renovation works. If a property is more than two years on the list without the owner having taken a renewal initiative, the property can be expropriated. The other two Regions have taken similar initiatives.

The concept of protected *heritage* in Belgium has existed since the 1930s and have since further developed. The built heritage was no longer limited to individual monuments but extended to urban scenes and small villages. In the past decades heritage legislation has therefore become much more complex. It has also resulted in a great increase in the number of listed monuments. This evolution was mainly focused on the built heritage (monuments, townscapes) and less on landscapes.

In all three Regions the regional government has the final decision regarding protection procedures. The general policy for unmovable heritage is the responsibility of two bodies: the regional administration responsible for monuments and landscapes and the Royal Commission of Monuments and Landscapes. The last one functions as an independent advisory committee of the responsible minister. Its tasks are further to provide advice on protection procedures and on permit applications. The roles of the provincial level and the municipal level are limited in statutory terms, but some have developed a consistent heritage policy. To some extent, public authorities contribute to the maintenance of the site. Other financial support measures such as tax advantages or restoration grants have also been introduced.

The regional level is primarily responsible for *environment* issues. In each sector (air, water, soil, subsoil, etc.) the Regions have adopted legislation and established procedures according to EU directives and international agreement. Instruments to

regulate development include environment impact assessments, permits, quality standards, plan-makings, investments in infrastructure, agreement with private companies and environment-related taxes.

One objective is *countryside conservation*. It is also mainly a regional responsibility. Several schemes exist to conserve the *Flemish* countryside. The 1931 Act on the Conservation of Monuments and Landscapes seeks the protection of landscapes for which conservation is a regional interest from a historic, aesthetic or scientific point of view. The listed landscapes are and remain protected regardless of any change of ownership. The Act lists work which are forbidden. Works other than for maintenance purposes require a permit. Since 1993, listing proposals require the advice of regional spatial planning administration. Areas are also designated protection in particular destination plans and sub-regional plans or are defined as forest zones or having ecological interest. Under regional legislation, a number of State natural reserves have further been created, so far, however, only for an area of less than 10 000 hectares.

In the *Walloon* Region several schemes exist to conserve the countryside. The law provides for both listening of buildings, landscapes, etc., nature reserves and nature parks. Nature parks concern larger areas than reserves (minimum 5 000 hectares) and are intended to protect the natural environment in harmony with the aspirations of the inhabitants and the social and economic development of the territory. In the region, the legislation on cultural heritage forms part of the legislation of spatial planning. Also in the *Brussels Capital* Region several schemes exist including protected forests, classified zones to safeguard flora and fauna, nature reserve sites, municipal parks and regional parks.

For a long period the *coastal dunes* have formed and endangered nature area. In 1993 the Flemish council passed the so-called Dune Decree. Parts of the maritime dune area are designated as a protection area, in which there is a complete prohibition to build new constructions. Not only are dunes protected, but also agricultural areas important for the protection and evolution of dune areas. The decree also contains provisions for compensation payment. Only when the listed parcel forms part of a residential area compensation will be paid.

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Denmark

1. Administrative structure

Denmark is a constitutional monarchy. At the national level it is governed by the *Folketing* (Parliament) with the power to enact laws and determine taxation and budgets and the Government (formally the Queen) with mainly initiating and executive power. The Ministry of the Environment and Energy has the main responsibility for spatial planning matters. The Ministry includes *Landsplaneavdelningen* (the Spatial Planning Department) which is the national administrative authority for spatial planning, advises the Minister of Environment on planning issues and prepares legislation on planning. Other agencies under the same Ministry are *Skov- og Naturstyrelsen* (the National Forest and Nature Agency) and *Miljøstyrelsen* (the Danish Environmental Protection Agency). There are further *Naturklagenævnet* (the Nature Protection Board of Appeal) and *Miljøklagenævnet* (The Environmental Board of Appeal), the first one the final court of appeal for decisions relevant to The Planning Act and the Nature Protection Act, the second the final court of appeal for administrative decisions relevant to the Environmental Protection Act, etc.

The country is subdivided in 14 *Amt* (counties). The centre of the capital Copenhagen also has the status of county. Each is governed by an *Amtsraad* (county council), elected for a four-year period by direct election. It elects a mayor, who is in charge of the day-to-day running of the administration, prepares the issues and carries out the council's decisions. In most counties the administration is organised in departments. The main field of the county authorities is hospital service. Other fields are high schools and adult education, health insurance and social welfare, public transport, major roads, environmental protection, rural land-use administration and regional planning.

Local government comprises 275 municipalities. Their internal organisation and the autonomy for managing their own affairs are similar to those of the counties. The main fields of the municipal authorities are social security benefits, health service, primary and secondary schools, cultural activities, local and private roads, public utilities, local spatial planning and handling of building permits.

The activities of the counties as well as the municipalities are essentially founded by levying income taxes and making charges for the running of county and municipal service. On an average the rate of income tax is about 10 % for the county and 20 % for the municipality. Both counties and municipalities have a high degree of independence in their decisions and activities.

Presently a committee is reviewing the administrative structure of Denmark. In this connection is discussed if the counties would be replaced by larger regions and if the number of municipalities would be reduced which probably would be followed by a strengthening of the responsibility of the regional and local authorities.

The ordinary judicial system consists of three levels. The first level comprises the city courts, the second the High Court for the eastern and western part of the country and the third the Supreme Court of Justice. There are no special administrative courts

in Denmark, but the Nature Protection Board of Appeals and the Environmental Protection Board are established as independent quasi-juridical organisations for dealing with appeals concerning land-use regulation and environmental protection.

2. Legal development

The first Town Planning Act was passed in 1925. In 1938 a new Planning Act was passed imposing the duty on the municipal councils to adopt a *byplanvedtegt* (town planning by-law) for any built up area with more than 1 000 inhabitants. The plan was to be submitted to the approval of the Minister of Housing. However, planning was only aimed at the regulation of towns. The urban sprawl created the need for an Act passed in 1949 by which *byudviklingsudvalg* (urban development committees) were set up to all expanding urban districts. The committees provided plans dividing the expanding areas into zones and preserving the open country areas. The huge urban development was regulated mainly by these zoning provisions and by master plans developed by the municipalities.

The planning law was reformed during the seventies and included the Urban and Rural Zones Act (1970), the National and Regional Planning Act (1973) and the Municipal Planning Act (1977). The planning laws have since been reviewed and revised. This legislation was integrated into a single Planning Act which came into force in 1992 and has been changed several times since then. So for example it was revised in 1997 to get a better instrument concerning retail planning and to change unfavourable development trends concerning location of larger shops and shopping centres. A main aim was to ensure that areas for shopping purposes are located well accessible for walking, bicycling and public transport and that sufficient areas for shopping purposes are available also in the city centres.

The Planning Act is the key legislative basis for the planning system. The final control of implementation is determined by the Building Act, which act determines granting of building permits and gives detailed regulations of construction works. Finally a number of sectoral land-use acts, e.g. the Nature Protection Act, the Environmental Protection Act, etc. provide regulations on nature and environmental protection, agricultural and forestry land, and infrastructural investment works.

3. Spatial planning structure

The Planning Act divides the responsibility for spatial planning between national, regional and local levels, with an extensively decentralised delegation of responsibility, placing the decision-making power and administrative competence at regional and especially local levels.

At the *national level* the Ministry of Environment establishes the overall framework, mainly through national planning reports and national planning directives. The former are statutory reports which set out the current national planning policies and provides guidance for the regional and local authorities. The latter are statutory directives providing binding regulations on specific issues of national interest, e.g. locating major transmission lines. A directive can also require the counties and municipalities to account for a specific theme in the future planning such as the location of afforestation areas in regional plans or windmills in municipal planning.

At the *county level* regional plans are prepared and adopted by the county councils. They are statutory plans providing firm guidance and with obligatory revision every fourth year. As the main political instrument for development control at county level they set out general policies and guidelines for regional land use especially in rural areas. Land use maps are based on topographic maps in scale 1:100 000 or 1:200 000. The plan coherently balances and sets priorities for numerous sectoral considerations and interests. The plans consist of two parts: guidelines for land use and a report presenting the premises on which the plan is based. The guidelines establish the general structure for land use including urban development, nature and environmental protection, and the location of large public institutions and transport facilities. The degree of detail must not be greater than is required by national and regional interests. An important part is the designation of urban and recreational zones. An other important feature is the establishment of guidelines on locating enterprises and facilities that require special consideration due to their effects on nature and environment. In addition, before any construction starts, the counties are obliged to assess the environmental impact of specific projects likely to have significant effects on the environment. The assessment is issued as a part of the report or as a supplement to the adopted region plan.

A part of a region plan is the general urban/rural zoning. The zoning system, established in 1970, divides the country into three zones: urban zones, where development is allowed in accordance with plans and regulations, recreational zones, where holiday and tourist developments are allowed in accordance with the statutory regulations and plans and finally rural zones (covering more than 90 % of the country) where developments and any change of land use for other purposes than agriculture, forestry and fishing are prohibited or subject to a special permission. In 2002 the administration of the zoning system/law was transferred from county level to municipal level.

The county authority is also responsible for administering and monitoring the overall environmental conditions of the countryside. The protection of nature environment and resources is mainly controlled by the Nature Protection Act, the Environmental Protection Act and the Raw Material Act, and the county authorities should maintain sectoral land-use programmes within these fields as well as on water preservation, water quality and agricultural qualities.

At the *municipal level kommuneplaner* (comprehensive municipal plans) are prepared and adopted by the municipal councils. In the first half of every election period the council must elaborate and publish a strategic plan and assess the necessity to change existing plan and then in which direction. The plans establish a general structure covering the total municipal area as well as a framework for the content of local planning and land-use administration for specific parts of the municipality. They are statutory plans which must be in general conformity with the higher level plans. Even if they are not binding on the landowners, the municipal authority may use the planning regulations as a legal means of land-use control. Land-use regulations are based on maps to a scale between 1:10 000 and 1:50 000.

The municipal councils also prepare and adopt *lokalplaner* (detailed plans). They are statutory plans providing regulations for a minor local/neighbourhood area. A preparation is mandatory prior to implementation of major development proposals and optional where considered appropriate by the municipal council. They set out detailed regulations for the future land use, with written statements and maps generally to a

scale between 1:500 and 1:5000. They are the main legal instrument for issuing detailed planning regulations. The plans must be in conformity with the higher level plans.

The *lokalplaner* have numerous uses and so the content and extent of the plans may vary widely. The general use of local planning is to provide detailed planning regulations for a small area in order to implement a specific development project, e.g. a group of new dwellings, a hotel resort, a public institution or industrial works. However, the plans may also be provided for other reasons, for example to issue detailed regulations for protecting and preserving valuable architectural features in the centres of towns. But *lokalplaner* may also be used for providing more general planning regulations for the design of transport structure, housing units, recreational areas, etc. in order to determine basic planning elements (known as framework plans). As the development process proceeds more detailed *lokalplaner* must then be prepared for the special development projects. Different types of local plans are shown in figure 10.

Municipal authorities further provide different sectoral plans as they are responsible for water supply, waste water facilities, waste treatment plants as well as primary schools, local road infrastructure, local traffic, etc., which all may have connections with spatial planning.

4. Process

The objectives of the *national* planning reports are to provide guidance to the counties and municipalities and to present the national planning policies on specific topical issues. The reports are prepared by the Spatial Planning Department based on cooperation with other ministries and national agencies. The 1992 national planning report for example was issued as a national planning perspective entitled 'Denmark towards the year 2018'. It expressed the national planning policies and contained the goals for development of Denmark's cities, towns, rural districts, transport system and tourism. The National Planning Report 2000 "Local Identity and New Challenges" continued this line with focus on the role of spatial planning in developing the urban system, in business development, transport and environment. One of the main points in the report is that the local partners - municipalities, counties, the local industry and institutions - can join a locally based network which finds locally based solutions. For the first time the Minister for Environment and Energy sent out an introductory presentation of the report in public and called for ideas and proposals to the topics set up in the presentation. In the light of this, a Draft Proposal was elaborated and sent out for public comments, whereafter the final and revised version was submitted to the Government and discussed in the Parliament.

All the county councils have the duty to establish and maintain *regionplans*, covering the total county area and establishing the overall goals for development for a 12-year period. The process includes a considerable amount of public participation. The formal process is as follows:

Prior public participation

The county council will solicit ideas and proposals by announcing a brief description of the major forthcoming issues, and by publishing a report on the anticipated changes to be made within the existing planning provisions. The council will further conduct an information campaign to encourage public debate

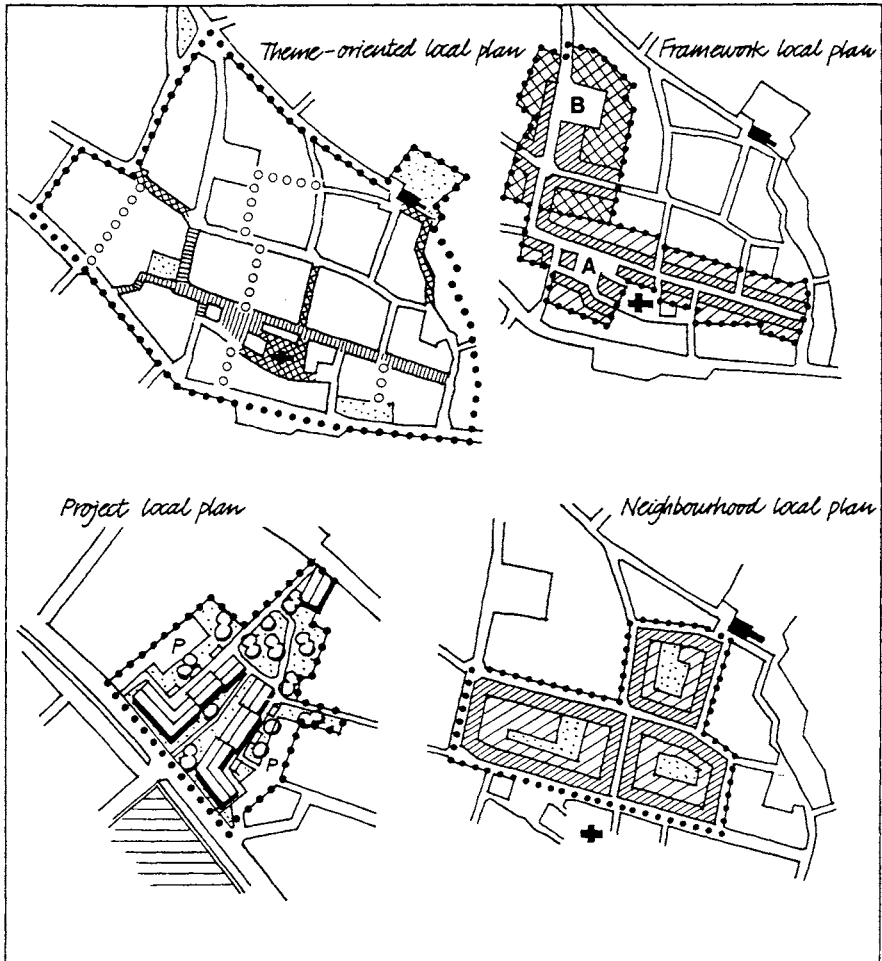


Figure 10. Examples of types of local plans

for the submission of ideas and proposals. The report will also be sent to the Minister for the Environment, and other State and local authorities whose interest are affected.

Plan proposal

The county authority prepare the plan proposal (based on planning considerations, the public debate and contact to other authorities, especially dialogue and negotiations with the local authorities) to be adopted by the county council.

Public inspection and debate

The adopted plan proposal will be published and a period of at least eight weeks is

set for the submission of comments and objections. The proposal will also be sent to the Ministry for the Environment and other State and local authorities whose interests are affected. The Minister for the Environment may veto the proposal on behalf of the State authorities.

Adoption of plan

The county council processes the comments or objections submitted by the public and other authorities, and may change the plan proposal. The final proposal is then adopted by the county council. If the proposal is vetoed by the Minister for the Environment, the proposal will be negotiated and finally decided by the Minister for the Environment, if agreement is not reached. The final plan is then published, promulgated and sent to the relevant authorities.

The plan is continuously monitored according to sectoral objectives and the overall goals of development, and the plan may be amended by providing supplements whenever needed.

The process for revising or supplementing the *kommuneplan* is as follows:

Prior public participation

The municipal council will solicit ideas and proposals, similar the process at regional level. However, it may refrain from this procedure for minor amendments.

Plan proposal

The municipal council prepares the plan proposal (based on planning considerations, public debate and contact with other authorities) to be adopted by the municipal council. In the process of adoption, any municipal councillor may demand to have his or her minority opinion of the plan proposal published simultaneously.

Public inspection and debate

The adopted plan proposal (and minority options) is published, and a deadline of at least eight weeks is set for the submission of objections etc. The proposal is also sent to the county council, the Minister for the Environment and Energy and other authorities whose interests are affected. The county council will submit objections, if the plan proposal contradicts adopted planning regulations at regional or national level (if not of secondary importance) and the Minister for the Environment may call-in the plan proposal.

Adoption of plan

The municipal council processes the comments and objections submitted by the public and other authorities, and may change the plan proposal. The final proposal then is adopted by the municipal council. If the county council objects to the proposals as contradicting higher planning regulations, the proposal will be negotiated, and the Minister for the Environment will make a final decision if agreement is not reached. The final plan is then published, promulgated and sent to the relevant authorities.

The municipal council must act to implement the adopted plan. Proposals for *lokalplaner* as well as land-use decisions in general have to be consistent with the adopted planning regulations. Therefore, the plan is consistently monitored and the plan may be amended by providing supplements whenever needed.

If a major development project is in compliance with the *kommuneplan*, the municipal council must prepare a proposal for a *lokalplan* as soon as possible. The municipal council may then require that the developer assists in preparing the plan. The process for providing a plan is, in the whole, similar to the process for providing *kommuneplaner*. The municipal council may involve the public already in the preliminary stage, but this is not mandatory. If the planning requires a substantial change in the *kommuneplan* through a supplement, the municipal council must solicit ideas and proposals for the planning work before a specific deadline. The further procedure for providing the supplement then can be carried out simultaneously with the procedure of providing the *lokalplan*. After the plan proposal has been subject to public inspection and debate the municipal council processes the comments and objections submitted by the public and authorities and may then change the plan proposal, following which the final proposal is adopted by the municipal council. If the county council objects to the proposal because it contradicts planning at higher levels, or if the plan is vetoed by State authorities, the proposal will be negotiated, and finally decided by the Minister for the Environment if agreement is not reached. A *lokalplan* proposal lapses if it is not adopted within three years after publication, or if it is not promulgated within eight weeks after adopted in final form.

All the regional and municipal plans have to be submitted for public debate and for public inspections and objections before final adoption. On the other hand, there is no opportunity for an appeal or inquiry of the contents of an adopted plan. Appeals can only be made on the legal issues involved in the production and administration of plans. There is no compensation to landowners for any development limitations thereby incurred. The procedure of public participation mentioned above is regarded as adequate for the legitimacy of the political decision. If a project of a development proposal is consistent with adopted planning regulations, there will be no further delay for implementation.

5. Legal status

A *Landsplaneredogørelse* (national planning report) is not binding for county and municipal authorities in a legal sense but is intended to be a reference framework for decisions that have spatial effects. The Danish planning system, however, has a strong hierarchical linkage, where the lower levels normally shall be in agreement with the higher levels. If they are not, the higher authority as mentioned has the right to veto the proposals, which then is followed by negotiations and decision from the higher authority, if agreement is not reached.

Landsplanedirektiv (national planning directives) are on the other side binding on county and municipal authorities. They are mainly used to implement specific major projects and locate specific activities as gas pipelines or electricity transmissions. Directives can also be used to lay down special national considerations such as the delimitation of coastal areas in which specific landscape features are to be protected.

An adopted *region plan* shall have a binding effect on the planning at local level. If

a local plan in an essential respect is not in agreement, the county council may veto the plan with following negotiations and decisions as mentioned above. As mentioned, even State authorities have the right to veto both regional and local plan with following negotiations and decision by the Minister for the Environment, if agreement not is reached. If an adoption results in a deviation between the region plan and the local plan, a supplement can be added to the region plan.

A *kommuneplan*, covering the whole municipal area, is not binding on the landowners, but the *lokalplaner* of the municipality must not contradict it. The level of detailed planning regulations is for the authorities themselves to decide. Some plans may include very detailed regulations, while others are more imprecise and provide flexibility for decisions on permitted activities. Where there is a proposal to develop which is not in line with the *kommuneplan*, the planning regulations have to be formally amended (when not of secondary importance), if the development is to be permitted. When there is, at the same time, the duty to provide a *lokalplan*, the planning provisions of the *kommuneplan* will be revised as a part of the process.

Lokalplaner are the cornerstones of the Danish planning system. The policies and regulations established at a higher level are implemented by providing detailed land-use plans which are legally binding on the landowners. When there is a development proposal which is not in accordance with the plan, the municipal council may grant exemptions from the provisions, if the exemption does not contradict the principles of the plan. More extensive deviations may only be carried through by producing a new plan. A plan has to be produced before larger areas can be subdivided or before major building and investment work, including demolition of buildings, can be carried out. But there is no legal definition of what constitutes a major project. The municipal council has to assess whether the project will have a major impact on the existent surroundings. Minor developments only need a building permit, but depending on the issue, a local hearing among neighbours may be conducted before permit is granted.

6. Implementation and control

Regulations established by the planning system are mainly restrictive. The system may ensure that undesirable development does not occur but it will not ensure that desirable development actually happens at the right place and the right time, as the planning intentions are mainly realised through private developments.

Public implementation of plans will be used for developing public service buildings, major roads, parks and other public use facilities. The municipal councils are responsible for providing the necessary local infrastructure. The expenses in connection with construction of roads, water supply and sewage systems are paid by the owners of properties gaining the benefit of access. The rules of charges are fixed by the municipal authority within certain criteria stated in the Environment Protection Act, the Water Supply Act and the Roads Charges Act.

Implementation can also be encouraged and controlled by public purchasing of the land. It can be done on a voluntary basis. Especially in the 1960s and 70s many municipal councils have tried to establish an active land policy by making strategic acquisitions of land suitable for developing new settlements in years to come. Nowadays when the housing production is declining, it is no longer adequate. Many municipalities are currently trying to sell off parts of their landholdings.

Compulsory purchase can be undertaken for a number of purposes. A *lokalplan* enables the council to acquire by compulsory purchase any property that is of material importance for its implementation, including any public purpose such as utilities, parks and recreation areas but also private purposes such as industry or housing. The land can then be disposed of for further development by private investors. The county and municipal councils are not entitled to establish public enterprise co-operations or to enter into private enterprise. The development of social or non-profit housing is not the responsibilities of the municipalities but is carried out by private non-profit housing associations. The associations co-operate closely with the municipal authorities in order to meet the needs of a big range of social groups. Non-profit housing is subsidised by the State.

Prior to the commencement of construction works a *Byggetilladelse* (building permit) must be obtained. The development project must be in accordance with adopted planning regulations and there may be the need to provide for a *lokalplan*. Applications must be directed to the municipal authority in writing and normally accompanied by a site-plan, architectural drawings and structural drawings of any special construction. Applications are processed by the Technical Department which is the normal administrative body serving the Technical and Environmental Committee of the municipal council. If the application complies with the technical regulations and adopted planning regulations, the rural zone provisions and any relevant conditions of the sectoral land-use laws, the permit must be approved. Fees have to be paid. Appeals against a permit decision pursuant to the Building Act may be made to the *Statsamtet* (the County Administrative Board). Only legal issues can be appealed, while discretionary decisions are conclusively determined by the municipal council. Appeals against permit decisions pursuant to the Environmental Protection Act may be made to the Environmental Board of Appeal. They may then be based on both legal and political issues.

The provisions of rural zones are intended to prevent uncontrolled land development and installations in the countryside and to preserve valuable landscapes. They ensure that parcelling out, construction of new buildings or changing uses of existing buildings on undeveloped land are not allowed without special permission from the local authority. An important exception is, however, that construction necessary for commercial agriculture, forestry and fishery operations require no rural zone permit (the Rural Zone Act was newly amended, making it easier also to build houses for extra staff and in relation to generation shifts). Minor additions and renovations of existing buildings are allowed, and existing agricultural buildings no longer necessary for agricultural operation may be used for craft, industry, office, storage purposes, etc. The transfer of a rural zone area into an urban zone is carried out by providing a *lokalplan*. The increasing property value deriving from the zone transfer is taxed, based on a reassessment of the market value, and a property release tax is calculated from the difference between the new and the existing assessment. The tax is charged at 40 % of amounts less than DKK 200 000 and 60 % of the rest. On request a respite is given up to 12 years.

There are also other rules which may affect the possible use of land and therefore require permission. The important acts containing statutory land-use provisions are the Nature Protection Act, the Environmental Protection Act, the Agricultural Holdings Act, the Forestry Act, the Raw Materials Act, the Preservation of Buildings Act, the

Public Roads Act and the Private Roads Act. For example, the Agriculture Holdings Act requires that all agricultural properties be operated in accordance with agricultural and environmental considerations. The general principle according to the different acts is that any change of land use is prohibited without having obtained the necessary permits from the relevant authorities. Also subdivisions must include documentation of approval from the appropriate authority regarding the impending land use according to planning regulations and the statutory land-use provisions.

7. Renewal, heritage, environment

The focus concerning urban development has in the last decades much been on urban *renewal and restructuring*, including traffic and environmental considerations for the purpose of generating new life in the old city centres. Projects are implemented partly by public investments in infrastructure, partly by urban renewal companies and partly by private investment works. The regeneration is mainly based on the Urban Renewal Act of 1982 covering three type of interventions: renewal of obsolete urban areas; improving of obsolete residential housing and elimination of health and fire hazards in buildings in general. The Act shifted the focus from slum clearance, by demolition and replacement, to renewal by preservation and improvement of housing standards and the local city environment. Important is also reusing of older industrial areas.

The *kommuneplan* must provide for the coordinated achievement of urban renewal activities. A decision to implement a specific urban renewal scheme is normally accompanied by the preparation of a *lokalplan*. Prior to the preparation of a proposal the council will inform owners and tenants and a period of submitting comments will follow.

Most urban renewal projects are executed by special urban renewal companies, which must be run on a non-profit basis. The costs of urban renewal activities are shared equally between central and local government.

Heritage is, to a large extent, taken care of by means of planning, for example by providing *lokalplaner* for the protection and maintenance of historical urban quarters or city centres. As a permit is needed for demolition or alteration of existing buildings, the municipal council may impose a ban in order to provide a *lokalplan for bevaring*. The Preservation of Buildings Act further includes provisions empowering the National Forest and Nature Agency to list valuable buildings. Almost 10 000 buildings of special value have now been listed. Such a building must be maintained in proper condition by its owner or user and nothing may be done which could change its condition without permission from the Ministry of the Environment. The owners are favoured by the possibility of obtaining special assistance or being granted guidance concerning the maintenance as well as having certain releases in taxes. Building taxation will thus be at a much lower level in order to support the maintenance of the house. If an owner is denied to alter or demolish his building, he may demand that the State take over the building subject to compensation.

Concerning *protection of the environment*, it is an important element in most spatial planning. The necessity of environmental considerations is underlined in the Planning Act, rules concerning Environmental Impact Assessment are integrated in the Act and consideration of Agenda 21 is now fixed by law. Further, a number of instruments are included in the Nature Protection Act and the Environmental Protection

Act in order to protect specific features. The Nature Protection Act gives general protection to coast, lakes, streams, woods, bogs, marshes, heaths, dunes, and ancient monuments. It thus prescribes protection zones of 300 m along the coasts of rural areas, 100 m around ancient monuments, 150 m around lakes and streams and 300 m around woods and churches. The Act further provides for establishing conservation regulations that make it possible to schedule areas as nature reserves. A permit is needed for implementation of construction works within the fixed protection zones identified in the Act. Full compensation is awarded to the landowners for losses suffered as a result. The Act also provides funds for acquisition of property with the object of implementing afforestation or major restoration projects. The Environmental Protection Act further includes provision to prevent and control pollution of air, earth and water as well as provision for noise and waste treatment.

In general the planning and administration of natural resources is the responsibility of the county council and should be paid attention to in the region plan.

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Finland

1. Administrative structure

Finland is a multi-party parliamentary democracy, headed by a president. Parliamentary elections are held every fourth year. The parliament has to approve new or changed laws, State taxes and State budget while the Cabinet - which changes according to election results - makes propositions and have executive power. The *ymperistö-ministeriö*, YM (Ministry of the Environment, MoE) is in charge of national level issues in environmental policy, environmental protection, land use, housing and building. It is the highest supervising authority in spatial planning. The Ministry prepares spatial planning legislation. The Land Use Department of the MoE supervises regional and local planning and secures nationally important spatial planning issues. Other ministries which can have an impact on spatial planning are the ministries of Transport and Communication, Agriculture and Forestry, Social Affairs and Health and further the Ministry of Interior, which is an important promoter of regional development because of the funds it manages.

Finland is divided in *läänit* (provinces) with the *lääninhallitukset* (provincial governments called Provincial State Offices), mediating between the municipal authorities and the central government. They belong to the traditional state administration and governors of the provinces are appointed by the president. Provincial governments do not make spatial plans. State guidance and supervision for region and local land-use issues belong to the 13 *regional environment centres*. As decentralised arms of the MoE they belong to the State organisation. They are responsible for environment protection, land use guidance and supervision, nature protection, protection of cultural environment and water resource management.

The 19 *maakunnalliset liitot* (regional councils) are, according to the Regional Development Act 1994 region-based co-operative organisations between municipalities (joint municipal boards). Regional councils are responsible for the general development of their regions. They do not belong to the State administration. They were established in 1994 to strengthen the position of regions and are responsible for protection of regional interests and regional land-use planning. The councils consist of representatives from the municipal councils. There are no regional elections in Finland.

Finland is further divided in 452 municipalities of which 102 are towns and cities. All municipalities have similar rights and obligations even though there are big differences in resources, size and population: the smallest one has around 500 inhabitants while the biggest, Helsinki, has over 500 000. Municipal elections are held every fourth year. In addition to the elected municipal council and the executive board, there are elected committees for different administrative sectors. Building and planning committees are compulsory. The right to levy taxes is the cornerstone of municipal self-governance. According to the Nordic trend, the very independent Finnish *kunnat* (municipalities), as basic units of local administration, gained a planning monopoly in 1968 and are now responsible for land-use planning and building issues in their areas. Municipalities co-ordinate the implementation of private and public housing develop-

ment through local production programmes. Private construction companies act as contractors. Municipalities can also regulate development by financing and building infrastructures and public services, both of which are their responsibilities.

2. Legal development

Finland has a long history in spatial planning. International urban planning trends have long been followed; for example the 1651 rebuilding plan for the town of Waasa had a regular grid layout. But the first town planning law in the modern sense was not approved until 1931.

Significant parts of the present planning and building legislation date back to the late 1950s with the *rakennuslaki* 1958 (Building Act). The Act covers both building and statutory land-use planning. It regulated and favoured mainly new development which was a strong priority in post-war Finland. Many traditional environments were destroyed. The Act allowed rather uncontrolled dispersed development on the one hand, and on the other it allowed existing historical but well functioning city centres and housing districts to be demolished. The criticism led to several later revisions of the Act. In 1989 and 1990, revisions increased the independent right of municipalities to make decisions on the local plans and public participation was increased. In 1990, the principle of sustainable development was incorporated in the Act and possibilities to change outdated plans increased. Also in 1994 new Acts concerning Environmental Impact Assessment and Regional Development came into force.

A new Act on Land Use Planning and Building with significant changes to the system came into force at the beginning of the year 2000. According to this, municipal land-use plans are not subjected for approval by other tiers of government and appeals against local planning decisions will go to the Administrative Courts. Greater impact was laid on public participation and environment. Finland has now reached a point where the emphasis of spatial planning is on economically and ecologically sound use of land, public participation, the protection and improvement of existing urban and rural environments, and nature conservation.

3. Spatial planning structure

There is no *national* spatial plan of Finland. The main activities of the Ministry of the Environment in relation to spatial planning include the preparation of national legislation, EU issues, national guidelines, promoting research, training, education pilot projects, producing publications and other means of information dissemination. The Land-Use Department of the MoE has prepared non-binding strategic principles for national spatial development (such as Finland 2017. Spatial Structure and Land-Use, Vision), which give different scenarios for spatial development. It has also prepared a 'National Urban Strategy' which responds mainly to changes in urban networks and prospects. Likewise, the National Environmental Policy Program 2005 includes measures which promote environmentally sound land use, etc. The Building and Housing Department of the MoE is the main policy maker for building and housing while the Housing Fund of Finland is a government agency which administers public funds for housing and grants State-subsidised loans for rental, co-operative and owner-occupied housing.

The Finnish *regional* planning system includes two integrated parts, the strategic regional plan and the regional land-use plan. Both of these plans are made by the regional councils. The *seutusuuunnitelma* (strategic regional plan) includes a number of important elements: the objectives part which describes general development goals, difficulties and possibilities for the region; the structure part which deals with matters concerning population, jobs, services, traffic, communication networks, energy management, water supply, sewerage and waste management; the land allocation part which on a map indicates the main lines of land use; the implementation programme, directed to the municipalities and other decision-making parties. The regional councils have to present on an annual basis a report on the implementation of regional plans. The *seutokaava* (regional land-use plan) is the most wide ranging land-use plan in the Finnish system. The plans are prepared in stages according to specific regional needs. They are presented on a map in scale 1:100 000 - 1:200 000. They cover the most important parts of the region and indicate the spatial patterns of such regional functions as urban networks and corridors, agriculture, recreation, nature protection, transportation and waterways. They guide local planning and are normally revised every four years.

On the *local* level the municipalities are responsible for the spatial planning. They produce *yleiskaavat* (master plans) and *detaljikaavat* (local detailed plans). Master plans usually cover the urbanised part of the town area and in some cases the entire area. Environmental impacts assessment are needed. It can be either a more strategic visionary plan to co-ordinate the spatial needs of different sectors or it can be more specific to guide building directly. There is no regulation determining the duration of master plans, but the average age is about 5 to 10 years. For example, in the case of Helsinki, master planning is under continuous evaluation and review because every new city council becomes strongly involved in goal-setting and implementation. The main focus of the Helsinki Master Plan was what would be the most important problems of the next 10 to 20 years. On the one hand, a strategic concept plan concentrated on main problems facing the city and determining broad planning objectives. At the same time specific problems were studied in context with the strategic plan. The result consists of a Strategic Planning Advice, a land-use plan and an implementation schedule.

The local detailed plan controls building in dense settlement areas in need of public infrastructure such as roads, water supply and sewage systems. Dense settlement can only be formed by a local detailed plan, or by exemptions granted by the local authorities or by the regional environment centres or MoE. The plan is a responsibility of the municipality. A special shoreline plan can, however, be made by the landowner but has to be approved by the municipal authorities. The local detailed plan is presented on a map indicating: the boundaries and location of the areas for various functions, the uses intended for land and water areas, the volume of building and the principles indicating the siting of buildings and, when necessary, the type of construction.

Concerning dispersed settlement the land owner has a basic right to build on his own land, which is a specific Finnish feature. This concept is not mentioned in the legislation but is a strong political reality which is based on tradition. Even at shorelines a landowner was earlier considered to have a right to build up to 4 or 5 houses per kilometre, but nowadays mostly a shoreline plan is needed.



Figure 11. Plan of social housing estate in Leppävaara, revealing a traditional Finnish urban model with small houses round planted courtyards (Hall 1991)

Development within other sectors than the building sector has often spatial influences. Sector planning is normally regulated in respective law. It is usually coordinated with spatial planning at regional and municipal level. Also planning for regional economic development may have spatial consequences. The main responsibility for regional development policy belongs to the Ministry of Interior. The principle objective of the 1994 Regional Development Act is to promote independent development activities of the regions and balanced economic development. Support for investment, start-up and internationalisation of mainly small and medium-sized enterprises is granted by the Ministry of Trade and Industry. There are also tax relief schemes for starting or expanding industrial production. Enterprises in remote regions receive transportation subsidies. Ministries and regional development authorities prepare publicly financed objective programmes for regions. There are a number of different programmes that clearly have a spatial targeting dimension.

4. Process

The *regional* planning process is based on interaction between actors of regional development. The *strategic* plan is normally prepared as a draft by the staff of the regional council in close contacts with involved authorities and other actors. The

regional council sees it as an important means of gathering ideas through extensive discussions between the inhabitants, public authorities and the private sector, before the regional council makes political decisions regarding implementation. The plan therefore starts with a strategy document of objectives for public discussion and for which observations and comments are sought. Often the objectives are distributed as subject-specific brochures for public discussion. After statements are received and public discussions held, strategic choices and decisions are made at political level in the regional council. It may consist of a report, environmental impact assessment, an implementation programme, statistics and a map. The *land use* part, the regional structure plan, will after having received political endorsement from the regional council be sent for sanctioning by the Ministry of Environment.

The production of a *master* plan includes the following stages:

1. The municipal executive board initiates the preparation of the plan. The draft is made by the local planning office or a private consultant. The draft must include a description of the likely environmental impacts of implementing the plan.
2. Consultations take place with the regional council, neighbouring municipalities and, if necessary, with the State and interest groups.
3. An opportunity is given with two public displays to landowners, organisations and the public to express their opinions. The draft must go through the public hearing process before its content can be approved by the municipal council.
4. At the same time, statutory statements to ensure that the plan is not in contradiction with other relevant plans, are asked from the regional council, neighbouring municipalities, government agencies, municipal committees and building permission authorities.
5. The plan is approved by the municipal council.

The municipalities initiate and carry out the land use planning. No permission from the state is needed. When landowners wish to develop their property, they ask the municipality to start the planning process. The municipality has, however, no obligation to start the planning process for a landowner, if the project does not match public needs.

Detailed planning generally includes the following stages:

1. The municipal executive board decides to start the process for an area.
2. Involved landowners are notified. It is prohibited to build until the plan is approved.
3. The municipal planning office or a private consultant makes a draft plan.
4. The draft plan is put on public display together with the statements received from landowners and third parties during the consultation period.
5. The municipal executive board accepts the draft, followed by a second public display.
6. After the statements have been processed, the municipal council may approve the plan.

Approved local plans do not have to be ratified by any other tier of government. There is however a standardised procedure of negotiations between the municipality and the regional environmental centre, which can request for an amendment and make an

appeal to the administrative court.

Appeals against decisions on master and detailed plan may be exercised by any person whose rights the decision immediately concerns, both concerning plan content and process formalities. It should be made to the Administrative Court. If the appellant is not satisfied he/she has the right to appeal to the Supreme Administrative Court.

5. Legal status

The strategic regional plan as a policy-led document giving guidelines for the general regional structure has no legal obligations. The other part of the regional plan, the statutory land use plan, after being sanctioned by the State, imposes legal obligations on both authorities and private landowners concerning securing rational land use and making reservations for main functions as urban development, transport networks and nature conservation areas. It shall be used as a guideline in drawing up and amending local master plans together with other measures to be taken into account. The regional plan is not valid in areas where a legally binding local master plan or detailed plan is in force.

The local master plan shall be used as a guideline in drawing up and amending local detailed plans together with other measures which are to be taken into account. The local master plan is not in force where a local detailed plan is in force. A special order may be included in the plan, prohibiting for a maximum period of five years the use of land designated for building for any construction other than that serving the needs of agriculture or corresponding needs of livelihood.

A local detailed plan is binding for both authorities and individuals and will control building in dense settlement areas. Exemptions from the plan are however possible. An owner can thus apply for a *poikkeuslupa* (exemption permit) to build without a plan or regardless of the plan, if the deviation is minor, or regardless of other regulations. Most of these exemptions are granted by the municipality. Granting of the exemption permit depends on the size of the case, whether it causes a need to revise the plan, etc. Very small deviations from the regulations do not even need an exemption permit because they can be approved by the municipal building committee and the building inspector during the process of the building permit.

A detailed plan for an area which has not previously been formally planned gives the municipality right to gain possession of street areas with relevant compensation being paid. In such areas the municipality may further without a special permit expropriate areas for traffic, recreation and other public needs and purposes.

6. Implementation and control

Municipalities are in charge of their own land policy. Some of them practice a more active land policy. In the bigger cities, where the municipality often owns development land, public management of urban development is strong, the city can realise decisions and strategies by plan-led systems and secure development by contracts with private developers. In weaker municipalities, with mainly privately owned land, the municipal council often follows a more development-led line according to the interests of landowners and the business community. When land is privately owned, public interests can be taken care of in development contracts though less effectively. In

general, the role of the public sector authorities in housing production and regulation has been decreasing. The trend now is to concentrate on creating the general conditions for housing production, for improving housing conditions and the effective functioning of the housing market.

Municipalities co-ordinate the implementation of private and public housing developments through local production programmes. Private construction companies act as contractors. Municipalities can also regulate development by financing and building infrastructures and public services, both of which are their responsibilities. They have the right to acquire needed land and as a main rule, the municipality pays compensation to the landowner for a public road or street area, if the amount of land exceeds 20 percent of the total area of the landowner. Sometimes also the construction costs are paid, anyhow partly, by the developer. If the land is not owned by the municipality, development usually takes place according to contracts between the public and private sector. Larger-scale housing development on private land is thus normally implemented by contracts between municipal building companies and landowners.

Master or detailed plans do not automatically imply the right to build. A *rakennuslupa* (building permit) from the municipality is needed for new development and larger renewal projects. A building permit is also needed for a larger change of use, for example when changing residential spaces to offices. Minor changes of a building need only to be notified to the municipality.

Building permits are submitted to the municipal building committee which has to grant it, if legal preconditions exist. Plans of the site, levels, sections and facades have to be annexed to the application. This is processed, often including negotiations on for example the suitability of the project into its surroundings. The site may be inspected and an appraisal is done of the application to the plan, if any, and to other regulations. Request may be done for further information. After a decision on a building permit, the applicant can make an appeal within 14 days to the provincial Administrative Court and a final appeal to the Supreme Administrative Court. The right to appeal may also be exercised by any person affected by the decision as for example a holder of a neighbouring plot. During the construction phase reviews and inspections are carried out.

There exist also other types of permits connected to spatial planning and development. In cases where potentially valuable buildings or parts of buildings are likely to be destroyed or damaged a *demolition permit* is needed. The owner must give an announcement of the intention to demolish to the municipal building committee 30 days before starting any measures. Any demolition activity can be stopped by the regional environment centre, until the value of the object can be assessed. If demolition permission is refused, the building can be protected by the Building Protection Act or a town plan.

According to the Environmental Permit Act there is sometimes need for an *environmental permit*, which may run parallel to a building permit, though they are independent processes. The environmental permit is being developed as an integrated pollution prevention and control permit. In the case of major projects (power stations, water treatment plants, waste disposal facilities, industrial plants, etc.) the permit is granted by the regional environment centre. In everyday cases, for example for building a service station, the environmental permit is granted by the municipality.

When the project will change natural conditions of lakes, rivers, and other waters, a *permit of the Court of Waters* is requested. A permit from the National Board of Antiquities is necessary if a project threatens *archaeological* remains. The local building ordinance can also include specific regulations relating to changing the existing environment.

While the landowner usually has the right to choose the time of building, the municipality can issue a *building request*, if at least half of the permitted gross floor area remains undeveloped, when the town plan has been in force for two years, or if the plot has not been developed according to the plan. If the land remains undeveloped three years after the building request has been issued, the municipality can expropriate it and sell or lease it to another developer.

7. Renewal, heritage, environment

Concerning *urban regeneration* the main mechanism is public-private partnership. For instance the chambers of commerce have been active partners in revitalising city centres. Perhaps the biggest problem facing Finnish cities is the improvement of the somewhat unpleasant suburban prefabricated housing areas built during the 1960s and 1970s. A large public-private co-operation project has been initiated to renovate these areas all over Finland. The MoE has established an extensive Renovation Research Programme for this purpose. Many city-centres have been revitalised by public-private partnerships in projects such as shopping malls. This has reduced the pressure to build shopping centres on highway junctions outside the existing urban structure. The State, the municipalities and the private sector also co-operate in a project for the ecological restructuring of towns (the Municipality Project for Sustainable Development).

National responsibility for *heritage* belongs to the Ministry of the Environment. Inventories are made in the context of local plans with aim to protect the entire historic parts of towns, such as the wooden housing districts in the towns of Porvoo and Rauma with street layout dating from the medieval times. During the 1960s and even in the 1970s, many valuable old buildings were demolished. Most of the remaining neo-classical, national-romantic, art nouveau and modern movement buildings have now been listed and protected.

The protection of historic buildings and sites is mainly regulated by the Building Act and is primarily the responsibility of the municipalities. The protection is done by means of detailed plans, where special ordinances are made on how buildings shall be maintained and how possible additional building rights can be used. Some 15 000 buildings are protected this way. Owner of historic buildings can get conservation and maintenance grants from the municipality and the state. It is possible to use also the Building Protection Act of 1985 to protect single buildings with an exceptional cultural and historic value. Some 150 buildings are protected this way. The decision is made by the regional environment centre, which submits it to the State for sanctioning.

Concerning the countryside the main legislation of *environmental* conservation is the Nature Conservation Act. Land-use planning plays a significant role in the protection of valuable landscapes and built environment also in the countryside. In the larger villages development, environmental protection issues and the value of the built heritage can be considered and protected through the local planning process. Outside the formal planning legislation voluntary village plans generally contain commonly

agreed instructions for building. In accordance with the Nature Conservation Act, nature conservation areas have been designed by the State and established on State-owned land, though there are also some private protection areas. Areas of full conservation (i.e. strict nature reserves) are called nature parks. Other categories include national parks and specific protection areas for marshlands, forests, islands, etc. To protect areas of outstanding beauty, the Act establishes the category of 'landscape conservation area'. The purpose is to provide guidelines for land-use planning without imposing tight restrictions. No order on a landscape conservation area may be issued, if it causes the landowner unreasonable inconvenience.

It is possible to make an application to the regional environment centre to establish a conservation area on private land. The owner can get compensation from the State because of land-use restrictions this implies. A total area of about 30 000 km² of land and water is protected to some degree from human activity. About the half of it is wilderness areas in Lapland, where in some parts only small-scale cutting of trees is permitted, while about a quarter of it is State-owned national parks. Well over 500 km² of protected areas are privately owned.

In Finland there is no specific legislation for the regulation of building on coastal zones. Through the whole coastline regional plans exist and many municipalities are preparing coastal zone master plans. An increasing pressure for leisure-time building is directed at the coastal and archipelago areas. The question of common legislation to keep the coastal zone or belt of some 100 m free of buildings has been a matter of hot political debate for decades.

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France

1. Administrative structure

In accordance with the Constitution, France is an 'indivisible Republic'. At the national level it is as other European countries governed by parliament and cabinet, but the head of the State, the President, has in the same time a strong position. Among the Ministries, the *Ministère de l'équipement, du logement et des transports* (Ministry of Infrastructure, Housing and Transport) and the *Ministère de l'Environnement* (Ministry of Environment) are especially involved in spatial planning matters. An inter-ministerial Regional Planning Agency, the *DATAR (Délégation à l'Aménagement du Territoire et à l'Action Régionale)* is directly attached to the Prime Minister. It is responsible for the conception and implementation of national planning policy at an inter-ministerial level and for the co-ordination of the programmes of the various government departments. The *Comité interministériel permanent pour l'aménagement du territoire, CIAT* (Permanent Inter-ministerial Planning Committee) which is placed under the presidency of the Prime Minister, is the principal decision-making body in relation to the definition of long-term planning objectives and policy decisions. To support planning directives and fund allocation there further exist several national consultative bodies as *Conseil national de l'aménagement du territoire* (National Planning Council), etc.

For the local administration France is subdivided in *Régions, Départements and Communes*, the numbers of which in the main land (exclusive overseas territories) are 22, 96 and around 36 500, respectively. The *Région* is a local self-government authority which is administered by a directly elected *conseil régional* (regional council). It is involved in spatial, transport and educational planning. The State is represented by the *préfet de Région*, acting as the State delegate and the representative of each ministry. Directly placed under his authority are the *services déconcentrés* (deconcentrated services of the State), attached to different ministries. The role of a *préfet de Région* has been reinforced. He is responsible for implementing national policies which are tied to economic development and planning. He also initiates and co-ordinates State policies relating to cultural and environmental matters as well as those relating to urban and rural policies.

Aside the regions the *départemental* level remains the 'territorial level for implementing national policies'. It is administered by an elected *conseil général* (general council). The State representative is the *préfet de Département*, which is not placed under the authority of the *préfet de Région* except in relation to social and economic development policy and *aménagement du territoire* (spatial development planning). Moreover, the *préfet de Département* is an overall police authority. Each department is divided in several *arrondissements* (districts), which have the constituency of a sub-prefect acting as a delegate for the prefect. The *arrondissement* is an area for encouraging local development and articulating local field service of the State administration.

The French concept of a *commune* is a community of local residents. This entity is

not defined according to functional criteria but represents instead a political authority and a framework for representation. This serves to explain the great number and the small average size of communes (over two-thirds of communes have less than 700 inhabitants) as well as the significance of intercommunal co-operation, which is responsible for the majority of public services or infrastructure provision. Amongst the communal joint authorities, most of them have a single function only. However, the State encourages multi-functional co-operation. Inter-communal co-operation in any form is a matter for the communes to decide upon.

The *commune* is administered by the elected municipal council while the mayor, elected by the council, is holder of the executive power. The *communes* together with joint authorities control spatial planning and land-use and are responsible for the provision of local infrastructure facilities and services. The mayor, together with the presidents of the councils in the departments and the regions entertain close relations with the *préfectures* (the services of the Ministry of Home Affairs at a departmental level) and the deconcentrated services of the State.

2. Legal development

The recent development of spatial planning legislation and structure in France is much influenced by the policy concerning *aménagement du territoire* (spatial development planning). The concept relates to regional development policy rather than physical planning. During the 1960s *aménagement du territoire* was a centralising policy. But it has changed. *Aménagement du territoire* has been a shared responsibility of the State, regions and lower levels of local government. The main purpose of the Act of 2 March 1982 by turning regions into local authorities was to increase their role in regional development. Regions are entitled to adopt a regional plan as a framework for their regional development policy, and regional planning was devised in 1982 as the main innovation for decentralised economic planning. Moreover, no national policy on *aménagement du territoire* is now conceivable without the participation and agreement of the majority of local authorities. The decentralisation policy is expressed in the decentralisation of planning (Act of 29 July 1982) and that of urban planning (Act of 7 January 1983). The Guidance Act of 4 February 1995 has added new instruments of physical planning.

Concerning physical planning several adopted Acts have tried to define different aspects. They have more or less been gathered in the *Code de l'urbanisme* (town or urban planning law code), which was first completed in 1957 with important modifications in 1983, 1987 and 1991. For some matters, it may also be necessary to consult the *Code rural* (rural planning law code) and the *Code de la construction et de l'habitation* (building and housing law code).

3. Spatial planning structure

Since the decentralisation reform spatial planning is a shared competence between the State and the totality of local authorities. The State is responsible for law and directives and can to a certain degree influence the implementation, especially through the national institutions of *DATAR* and *CIAT* and by the allocation of funds for support. The *DATAR* negotiates with the Commission of the European Communities for the

French areas and programmes, which are eligible for Structural Funds. It further prepares matters for debate by the *CIAT*, which determines the allocation of specific funds while the *DATAR* ensures the proper implementation of such decisions.

To a certain degree the State may also more directly take part in the physical planning and in the implementation because of the power accruing to the State in order to claim an overriding public interest; for example, the consideration of a *project d'intérêt général* (project of general interest) or an *opération d'intérêt national* (development project in the national interest) or even to ensure the implementation of local housing programmes. However, the shared responsibility is even more apparent in the compulsory involvement of the State and at their request of the department and the region in the formulation of urban planning documents as well as the adoption by the State of planning documents which, in some cases, bind local authorities or qualify their making-making.

A still more active part is taken by the State concerning planning of infrastructure. Thus, the State establishes with the local authorities *schémas directeurs d'infrastructures* in the framework of the national and local guidelines on *aménagement du territoire*. The purpose of these *schémas* is to ensure the long-time coherence of transport networks and to fix priorities relating to their modernisation, adaptation and extension. They are drawn in consultation with the regions and consist of reports and graphic documents. The development projects covered by the *schémas* are communicated to the local authorities by the prefect in order to ensure the compatibility prescribed by the code de l'urbanisme.

At the *regional* level there is no prescribed physical plans. But the region has possibility to produce a *plan de la région*, which determines the medium-term objectives of the economic, social and cultural development of the region. The implementation rests on action programmes which are intended to provide a basis for the adoption of contractual undertakings agreed with the State and other public or private partners from the region. The State and the region can further agree about a *contrat de plan* (plan convention). It is used by the State as a means to implement its planning and development policies, and allocating relatively greater funding resources to the poorest of regions. However, the State prescribes, before the start of negotiations, the objectives and the fields in which it intends to commit itself as well as the global level of its investments. The allocation of funding for expenditure relating to infrastructural works forms the greater part of those *contrats de plan*. The regions also produce sectoral planning instruments such as *plan régional des transports* (Regional Transport Plan). The departments also produce sectoral planning such as the *schéma directeur d'infrastructures* (sectoral planning scheme on infrastructure provision). Sectoral planning documents drawn and approved by the prefect includes, among others, schemes on the development and management of water resources and plans on the disposal of household and industrial waste.

Physical planning instruments with a regional coverage and a statutory nature exist, however, only in the regions of Ile-de-France (Master Development and Urban Planning Scheme in the region around Paris), Corsica (framework plan on the development and conservation of coastal areas) and in the regions of the *départements d'outre-mer* (Overseas Department). But certain schemes exist for protection of areas of special value. Thus, the *schéma de mise en valeur de la mer* (Coastal Planning Scheme) is a document which can be used in coastal areas. It prescribes land-uses for

various land and maritime areas, which accommodate industrial or harbour activities together with the programmes to service and develop maritime areas and environmental protection measures. Further, *Directive de protection et de mise en valeur de la mer* (Directive on the conservation and enhancement of natural landscapes) can be imposed by the State in relation to outstanding areas given the beauty of their landscapes.

The main physical planning exists at the *local* level. It is basically town planning and is regulated by the *Code de l'urbanisme*. The planning is based on two major instruments which are within the competence of communes or their joint authorities: the *schéma directeur*, *SD* (framework or structure plan) and the *plan d'occupation des sols*, *POS* (building plan). See figure 12.

A *SD* has to be established by a joint authority of communes on the basis of common development interests, within an area which is delimited by the prefect, relying on the proposal adopted by a majority of the municipal councils concerned. It determines basic orientations for the development of the area covered and the general use assigned to land for developments, including major infrastructure projects. It consists of a report and graphic documents, whose scale is generally between 1/10 000 and 1/25 000. To establish a *SD* is not compulsory but depends on the interests of the communes concerned.

A *POS* is established by a municipal council for its territory, in part or in totality, or by a joint authority if empowered for that purpose by the member communes. It determines general rules for the use of land, including building prohibitions or restrictions and safeguard areas, the urban and development area, the design of communications, and so on. It provides general land-use regulations and servitudes (public easement charges). In particular, it indicates those sites reserved for public works and thoroughfares, public buildings and green spaces. It needs to be compatible with the *SD* and sectoral plans as well as directives on the protection and enhancement of natural landscapes. It is the common law instrument for regulating local land-use and consists of a report, graphic documents, generally on a scale between 1/10 000 and 1/2 000, and a code of regulations. The areas are divided in *zones urbaines* (urban areas, U), where the capacity of existing facilities and infrastructure can immediately accommodate new buildings, and *zones naturelles* (natural areas). In the last ones, a distinction is drawn between the *zones d'urbanisation future* (future urbanisation areas, NA), areas which are partially covered by services/facilities which are not intended to be increased (NB), the *zones de richesses naturelles* (areas of natural resources, NC) and the *zones à protéger* (conservation areas, ND). The *coefficient d'occupation des sols* (the plot ratio used to control density in *POS*) in particular serves to indicate for an area or part of an area the maximum building density authorised.

Outside of the areas covered by a *POS* or an equivalent document, building rights are very limited and subject to specific controls, the *règles générales d'urbanisme* (general rules of urban planning). These regulations issued by decree are applicable in all communes with the exception of areas covered by a *POS*.

Besides the mentioned physical plans the communes or groups of communes also may produce sectoral plans as local housing programmes, urban transport plans, etc.

4. Process

In the formulation of national policies, directives and guidance, the Prime Minister and

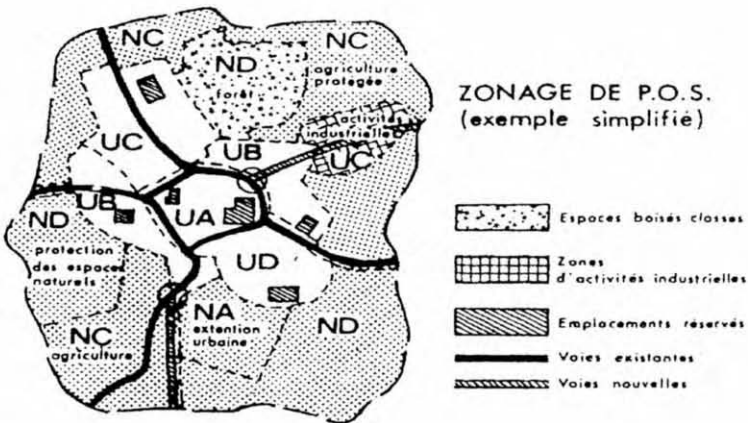
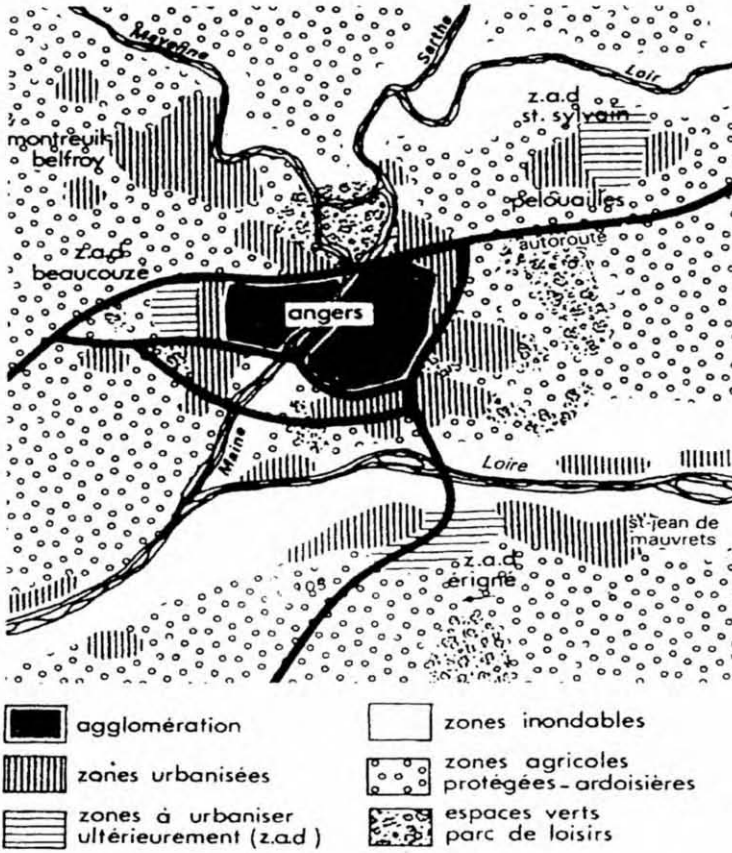


Figure 12. Simplified map illustrations of the Schéma directeur and the POS

the responsible Minister is assisted by different institutions. Above *DATAR*, *CIAT* and *the Conseil national de l'aménagement du territoire* are mentioned. Other national government institutions of importance in this connection are the *Délégation interministérielle à la ville et au développement social urbain* (Inter-ministerial Delegation for Urban Policy and Urban Social Development), *Comité interministériel des villes et du développement social urbain* (Interministerial Committee of Cities and Urban Social Development), *Conseil national des villes et du développement social urbain* (National Council of Cities and Urban Social Development), *Conseil national de la montagne* (National Council for Mountainous areas) and *Commissariat général au Plan* (General Commission for the National Plan).

The *plans de la région*, mostly dealing with the economic development, is formulated and approved by the regional council, at the outcome of a consultative procedure which brings together all the local public agencies as well as the *conseil économique et social de la région* (Social and Economic Council of the Region).

The draft *schéma directeur* is drawn by the decision-making authority, an *établissement public de coopération intercommunale* (local government joint authority), then submitted for approval to the member communes and the public organisations involved in the procedure. Any public organisation involved in its formulation which is opposed to it may turn to the *commission départementale de conciliation* (Departmental Conciliation Commission), which may then issue further proposals, but they cannot be imposed on the public intercommunal organisation. Lastly, the *schéma* is approved by the council of the joint authorities and enters into force 60 days after shown to the prefect, during which time he may be able to call for amendments on behalf of the State or of a *commune*. The amendments required by the State are then imposed on the local government joint authority, if necessary by exercising a power to substitute a decision. Amendments which are requested by a *commune* may lead to its withdrawal from the *schéma* if the *commune* does not obtain a satisfactory hearing during the conciliatory/arbitration process. The prefect can also prescribe the formulation of the modification of the *schéma* to ensure that national planning guidelines are applied and to implement a project of general interest.

The *POS* is drawn following the initiative and under the responsibility of the commune. The municipal council prescribes its formulation or revision (the procedures of a *POS* are one and the same when the corresponding competence has been delegated to a public intercommunal organisation). The State is by right involved in its formulation and at request the region, the department and other public authorities. The mayor can also consult any other organisation or association with particular competences in the field of construction, planning, development and environment. The prefect is responsible for informing the relevant authority about the prescriptions, servitudes and territorial directives as well as the projects of general interest and the minimum targets set for local housing policy.

The draft *POS* is drawn by the municipal council (or responsible body of the intercommunal organisation), then submitted for approval to the public authorities involved in its formulation as well as the neighbouring communes and public authorities directly concerned, including the Chamber of Commerce, the Trade Association and the Chamber of Agriculture. Once it has been drawn by the responsible body of the intercommunal organisation, it then needs to meet the approval of the member municipal councils. The departmental conciliation commission may be

called to intervene at this stage by a public authority involved in the POS formulation because it objects to its present form. The draft *POS* is so made public together with the comments made on it and modifications resulting from those comments; then it is subject to a public inquiry. The plan, eventually modified, is so finally approved by the municipal council or the council of the intercommunal joint authority and made available to the public.

The *POS* is in force as soon as it has been submitted to the prefect if it is located within an area covered by a *schéma directeur*, one month after due notice of the prefect; if this is not the case, unless he requires amendments within the same period. In this case, *POS* only becomes legally enforceable once amendments have been made.

The revision of the *POS* follows the same procedure as its formulation but a modification only requires the approval of the making-making authority after a public inquiry. A *POS* may be revised or modified at the request of the prefect to ensure its compatibility with planning provisions, or the guidelines of a *schéma directeur* or alternatively to facilitate the implementation of a new project of general interest. This revision or modification may be pursued if necessary by the prefect substituting for the local authority.

Two urban planning documents may be used instead of a *POS*: *the plan d'aménagement de zone*. *PAZ* (area development plan) in the context of a *ZAC* (see later) and the *plan de sauvegarde et de mise en valeur* (detailed local plan specifying conservation policies). The *PAZ* shares many of the *POS* characteristics. In conservation areas created and designated by the State a conservation plan is produced which is partially subject to the *POS* but which is drawn under State supervision and approved by decree. A *schéma de mise en valeur de la mer* (Coastal Planning Scheme) is a document which can be used in coastal areas for the protection, the management and the development of the coastline. It is drawn under the authority of the prefect with the participation of locally elected representatives of socio-professional groupings and interested associations within a working group. It is subsequently submitted for approval to the decision-making assemblies of the local authorities concerned as well as public professional bodies. It is formally approved by a Government decree.

Appeals challenging the legality of urban planning documents are dealt with by the administrative courts. The *juge administratif* (administrative law judge) exerts control over urban planning documents. An error will give rise to a quashing decision if it is 'obvious'. In an appeal case against the legality of an administrative decision, anyone can institute an action provided that he shows sufficient grounds to do so.

5. Legal status

Long-term strategic planning schemes adopted at the national and regional levels will normally not be formally binding, but they are often linked with sectoral planning and with implementation instruments, such as financing of national priorities, regional plans, state-region plan conventions and major joint planning instruments. A new planning document *directive territoriale d'aménagement* (Territorial Planning Guideline) is in main binding for local urban planning documents. National and regional policy documents concerning spatial planning should be taken into consideration at local planning and may be a base for the control and possible amendments by the prefect of the department.

The *schéma directeur* is not legally binding on property interests with some exceptions. However, urban planning documents, major infrastructure works and land purchase programmes undertaken by local authorities within the perimeter it covers, need to be compatible with its contents. This implies that any document failing to comply with a precise or several general and converging guidelines issued by a *schéma directeur* can be quashed by an administrative judge.

A *POS* is legally binding on property interests. A *POS* gives the landowners development rights within assigned areas and will be guiding in case of use of compulsory purchase in the public interest as well as pre-emption rights.

6. Implementation and control

A much used instrument to implement *regional* development plans is a State-region plan convention. The *contrat de plan* between the State and the region, which was in principle designed to be an implement tool of the national plan, has effectively become an instrument of joint and negotiated planning. It is used by the State as a means to implement its planning and development policies and allocating relatively greater funding resources to the poorest of regions. The allocation of funding for expenditure relating to infrastructural works forms the greater part of those *contrat de plan*.

At the *local* level both the *schéma directeur* and the *POS* will in the first place serve as framework and guiding lines for future development but are mostly not established as project plans for immediate implementation. But a *POS* can none the less be followed by direct actions from a *commune* or a joint authority of *communes* to implement development. Supported by the plans the *commune* may begin a policy of land acquisition, by voluntary purchases or by using expropriation and pre-emption rights. Public authorities may thus use expropriation not only for acquire land and buildings required for the operation of public services but also for areas allocated to housing or for the demolition of old buildings in order to develop residential areas and to acquisition of land reserves. It can however only take place after a declaration stating the public interest. There are two distinct types of procedures in use of pre-emption rights. *Urban* pre-emption rights may thus be used by *communes* which have a *POS* and by communal joint authorities which have a competence to formulate urban planning documents. A *Zone d'aménagement différé*, *ZAD* (future development zone) can be created by a decision of the prefect of the department. From that onwards, the State may exercise pre-emption rights. In both cases, the holder of pre-emption rights may delegate the power. Also in both cases the rights cannot be exercised to acquire land except in cases where the acquisition is intended for a specific development programme or project.

A *programme local de l'habitat* (local housing programme), defining the objectives and principles of a policy intended to answer housing needs, may thus include public land acquisition, in particular if it takes account of the departmental plan for the housing of disadvantaged categories and the regulations governing the allocation of social housing. A local housing programme can be drawn by a local government joint authority and should be applied in principle to all or part of an agglomeration. It provides the basis for a contractual agreement which is drawn by the State and the relevant joint authority and which determines the financial contribution of the State in relation to housing and land policy.

The most widespread instrument to ensure the implementation of development projects is however the establishment of a *zone d'aménagement concerté*, *ZAC* (planning and development zone). It is legally defined as a 'zone within which a local authority or a public law corporation legally entitled to do so, may choose to intervene in order to develop or arrange for the development and the servicing of land, most notably those sites which the local authority or corporation have acquired or is intending to acquire with a view to their subsequent sale or concession to public or private users'. It represents a means of intervention by the public authorities. The instrument was once intended to provide the frame-work for large-scale urban development projects. However, today it is also used for small development projects, which facilitates private sector funding of the entire development. In an area covered by a *POS*, a *ZAC* may be created only in the urban zones or in the future urban zones.

In law, the initiative to use a *ZAC* exclusively rests with the local authority or the public law corporation which is legally competent in this respect. However, it is frequent that the initiative by a public body is motivated by a proposal put forward by a private developer. Its implication then gives rise to a contractual agreement between the public authority and the developer. The decision to create a *ZAC* does not require a preliminary public inquiry. It represents a non-regulatory act which does not confer established development rights. A *ZAC* is subject to a *POS* but it is always possible to depart from it by formulating a *plan d'aménagement de zone*, *PAZ* (Area Development Plan). An implementation dossier is submitted to the responsible authority, calling for the approval of the programme for public infrastructure, the provisional funding conditions and where relevant graphic documentation of the development.

The implementation of a *ZAC* may follow different types of legal procedures: direct management where the public authority is able to ensure implementation by itself, mandate where a public law development agency will be appointed, a concession agreement with a public law development agency or with a *société d'économie mixte locale* (semi-public organisation). Not least the last alternative is used to implement big projects, often financed from both public and private sources. The implementation may also be carried out by a private or a public body through a contractual agreement. The definition of the infrastructure due to be implemented by a developer is usually one of the principal subjects of a such agreement. With regard to marketing, the development programme will include the reallocation of land for plots in response to demand. Any sub-divisions undertaken within a *ZAC* will not require preliminary authorisation, which effectively allows a better response to market demand. Moreover, marketing is not dependent on the completion of infrastructure works. The *ZAC* formula encompasses the provision of public infrastructure by the developer. When it is the private sector, one of the aims of the contractual agreement between him and the public authority is to make him responsible for part or all of the cost relating to the necessary infrastructure.

The *secteur d'aménagement* (designated development area) represents today a flexible alternative to the *ZAC*. The municipal council may delineate a development area or several and draw a global development program for each sector, which specifies the nature, the cost and the implementation deadlines of public infrastructure. In addition, it will also stipulate which implementation costs are to be borne by the building contractors and the apportionment criteria between different types of building. This form of development is primarily intended to encourage private sector

involvement in modest development programmes which do not require significant land policy measures. In such areas all or part of the expenditure towards the provision of the necessary infrastructure may be imposed on the holders of building permits.

Another implementation alternative is to establish an *association foncières urbaines*. These are associations of landowners with the purpose to undertake development projects on behalf of the landowners themselves. They can be private, founded on contract, but also authorised after a public inquiry, consultation with the commune and a qualified majority voting at a meeting of owners. In this case it will be a public law corporation, where the financial participation of the associates are recovered as direct contributions.

In general, a *taxe locale d'équipement* (local service/infrastructure tax) can be imposed by the commune on the holder of a building permit. The basis for taxation is the value of the property held, a lump sum payment subject to a 1 % rate which may be increased by the municipal council to 5 % but which varies according to the type of construction.

A *permis de construire* (building permit) is required for all building work for any use, even for building works of the State, the local authorities and all the public services. There are some exceptions such as works which will not affect the existing use and purpose of the building, nor create additional floor space or are less than 20 sq.m. on a plot already built. These works are nonetheless subject to existing land-use regulations and are bound to be the subject of a preliminary declaration of works to the mayor. A permit is granted by the mayor in the name of the commune when it is covered by a *POS* or a document used instead and otherwise by the prefect.

The application for a building permit needs to be accompanied by a dossier, normally containing the following: a site plan, a layout plan of the intended constructions, a plan of the facades, drawings showing the location of the building set in its natural ground and photographs locating the development in its close environment. Aside from the exemptions provided by law, the applicant also have to instruct an architect to draw an architectural scheme for the intended development. The submission of an application is advertised on a notice board.. It is incumbent on the responsible authority to arrange any meetings which are relevant to the intended project. For great projects a public inquiry is necessary. The authority is further responsible for arranging the required consultations, for example with conservation authorities.

A building permit will only be granted if the proposed building works conform with the national rules of urban planning, local urban planning regulations as *POS* or with the specific regulations applicable to particular urban planning project. Moreover it will only be granted if the intended project is in line with public easement charges and regulations for conservation or health. Outside the area covered by a *POS* or an equivalent document, building rights are very limited and subject to specific controls.

If a decision relating to a building permit has not been communicated by the competent authority within a fixed time period (usually two and a half months from the registration of the application), then the permit is considered to be authorised. The competent authority may grant the permit but in some cases only under the provision that particular conditions are met. A refusal of a building permit needs to be justified. All approved building permits are sent to the prefect for the due control of legality. Within two months the prefect can then appeal to the *tribunal administratif*, if he

believes that the permit is illegal. An appeal can also be lodged by any person who is affected by the decision to refuse or grant a permit. A permit granted or refused illegally can impose a liability on public authorities if it has been the cause of damages.

A building permit may allow for departures from the general rules of urban planning as the required distance from highways or major road networks, the siting and the volume of construction. However, in the presence of a *POS*, no departures are possible, save minor adjustments.

Other important permits which can be needed are *permis de démolir* (demolition permit) and *autorisation de lotir* (subdivision permit). Demolition permit is used to safeguard certain interests such as the protection of existing housing stock in order to meet population requirements and the protection of buildings and areas for aesthetic, historical or environmental reasons. It may be used by communes with more than 10 000 inhabitants or *communes* listed with regard to housing needs, within conservation and protection areas as well as in certain other cases. The competence for granting a demolition permit is the same as for a building permit and the procedure is much the same.

The subdivision procedure, which was initially an expression of property rights, is now subject to a system of administrative control. The procedures attached to the *autorisation de lotir* follows very closely those used for a building permit. A subdivision permit confers development rights to the subdivider. *Lottissement* is often used for implementation of recreational housing etc.

7. Renewal, heritage, environment

Opérations de restauration immobilière (property rehabilitation programmes) may be established with the purpose to transform the living conditions within a boundary set after a public inquiry. In case of the existence of a *POS* the municipal council decides the boundaries of the project, otherwise the prefect. Such restoration programmes may be initiated by the property owners or by public authorities. By law, owners are in fact given the choice between carrying out the works or compulsory purchase. Where the owners have decided to carry out the works required, they are also faced with the choice of undertaking to do it themselves by creating an association for property rehabilitation or alternatively to appoint the relevant company for rehabilitation by contract. The owners benefit from significant fiscal advantages if they undertake the necessary works themselves. The owners are entitled to financial aid to improve housing and other specific facilities.

Important aspects in connection with implementation and control of development are *heritage and environmental* considerations. Buildings may thus be classified as historical monuments when their conservation is in the public interest from a historical or an aesthetic point of view or when they are situated close to such buildings. Any works affecting such buildings require special authorisations. Moreover, any works which are likely to alter the external appearance of a building within sight of a first-grade or second-grade listed building require a preliminary authorisation. The building permit involves this authorisation when it has been approved by the *Architecte des bâtiments de France* (State authority for the protection of monuments). Another measure may be to establish a *zone de protection du patrimoine architectural, urbain et paysager* (zone for the protection of the architectural, urban and environmental

heritage). The purpose is to ensure the conservation of urban districts or residential areas which present a certain interest although they do not justify the creation of a conservation area. It may also be used for protection of the landscape heritage even outside an urban area. Such a zone is established by decree by the regional prefect following the proposal or with the agreement of one or several municipal councils and after a public inquiry has taken place. The Minister charged with urban planning may also decide to create such a zone. Also within those zones any works which may alter the aspect of a building is subject to special authorisation. It may be created whether a commune is covered by a *POS* or not.

Protection outside urban areas otherwise rests on three instruments: the national parks, the regional nature parks and the nature reserves as well as the conservation of coastal areas. The *national parks* satisfy three objectives laid down in law: to protect the natural heritage, to make this heritage accessible to all and to contribute to the development of the territories concerned. Most of them are created in mountainous areas. The *regional nature parks*, which cover almost 10 percent of the national territory, rest on regional initiative and are created by decree on the basis of three criteria: the outstanding characteristics of the area requiring a classification, the quality of the project proposal, the development and management capacities of the organisation put forward. Conservation in this case is due to serve the interests of local development. The parks are created in accordance with a charter comprising a plan which is formulated on the basis of an inventory of the heritage to be protected and which indicates the various zones and their uses. The financial contribution of the State only represents 10 to 15 % of the budgets, but it has a strong leverage effect on the contributions of other public authorities and makes way for EU funding. The purpose of the *nature reserves* is to ensure an exemplary protection of the various categories of natural environments existing in France. The choice of reserves rests on scientific inventories-classifications of zones of ecological, faunal and floral interest. Territories classified as nature reserves may not be modified in any respect but under special authorisation, subject to consultation of competent bodies.

Concerning *coastal protection a scheme de mise en valeur de la mer* may as mentioned above be established in certain areas. Special regulations apply further to communes which have a maritime coast or border on a lake. Urban planning documents need to determine the capacity of communes to accommodate seasonal population, taking account of the required conservation of green spaces and the natural environment, the necessary land for agricultural/pastoral/woodland and maritime activities and the conditions of access to the general public. The extension of the urbanisation process needs to take place in continuity with existing agglomerations and villages or in hamlets which are integrated in the environment; any buildings or other installations are generally not allowed within 100 meters of the shore. The *Conservatoire du Littoral* (Conservatory for Coastal Areas) is an privileged instrument with regular and significant increases in credit since 1980, which has selected substantial sites for acquisition and management.

Decisions concerning conservation and environmental protection have importance for land-use planning of *rural* areas. The same is the case concerning much of the sectoral planning, as planning of infrastructure, water resources, waste management etc. One special case of detailed planning is connected to *land consolidation*. Since the 1950s the activities in this respect has increased very much and France has today more

consolidated area than any other country. The operations do not only deal with transforming of many and small parcels to larger fields adapted to modern big-scale cultivation but do also normally include improvement in the systems of field roads and water-courses. Otherwise rural planning is in much directed against local economic development. The objectives of the policy of *aménagement du territoire* in rural areas are to sustain agricultural activities, diversify economic activities and maintain public services provision in areas with a low population density. The support granted to agricultural activities essentially relies on social and fiscal measures. Specific policies are also destined to promote what is known as *tourisme vert* ('green tourism') with help to development of tourist accommodation, resorts and measures ensuring the protection of sites and landscape. Different funds are used for the necessary investments. The actions in rural and especially in mountainous areas also benefit from EU funding.

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Germany

1. Administrative structure

The government structure of the Federal Republic of Germany comprises three main levels:

- *Bund* (federal) government;
- *Länder* (State) government; 16 *Länder*, comprising 13 'area' *Länder* and 3 'city States';
- *Kommunal* (local) government consisting of:
 - 324 *Landkreise* (counties)
 - 110 *kreisfrei Städte* (county-free towns/cities) and approximately
 - 15 000 *kreisangehörige Gemeinden* (municipalities belonging within a county).

At the *Bund* level the main institutions are the legislature, comprising the *Bundestag* (federal parliament) and the *Bundesrat* (federal council), the last one built up by representatives from the different States, and the federal administration, which is made up of the *Bundesministerien* (federal ministries), staffed by permanent civil servants. The responsibility for spatial planning at national level rests with the *Bundesministerium fuer Verkehr, Bau- und Wohnungswesen* (Federal Ministry of Transport, Building and Housing) BMVBW for short. Other ministries whose tasks have an impact on spatial planning are the *Wirtschaft, Umwelt, Naturschutz und Reaktorsicherheit* (Economics, Environment, Nature Conservation and Nuclear Safety) ministries. In addition to the ministries there is also a number of federal agencies, which are responsible for particular affairs throughout Germany. They are essentially independent, non-political, advisory, policy and research institutes. They are funded and supervised by the relevant ministerium. The most significant of these agencies in terms of spatial planning are the *Bundesamt fuer Bauwesen und Raumordnung* ,BBR (Federal Office for Building and Spatial Planning) which reports on spatial development, undertakes spatial planning research and models planning and renewal programmes, the *Umweltbundesamt*, UBA (Federal Environmental Agency), responsible for research and advise in relation to environmental issues, and the *Bundesamt fuer Naturschutz*, BfN (Federal Nature Conservation Agency), responsible for research and advise in relation to nature conservation.

The *Länder* have extensive legislative responsibilities and the responsibility for the administration of most matters where the legislative power lies with the *Bund*. Their elected assemblies are the *Landtag* or *Landesparlament*, which are responsible for the approval of *Länder* legislation. Eight of the largest 'area' *Länder* have three levels of authorities:

- the *Landesministerien*. The higher level also includes higher *Land* authorities which subordinate to the ministries, but operate on a land-wide basis, such as the *Landesdenkmalamt* (State monuments office);
- the *Bezirksregierungen* (district administration) for districts. These are administrative authorities, headed by a chief executive;

- the *Landesunterbehörde* (lower State authorities) integrated into the *Landkreise* (counties) and *kreisfreie Städte* in the person of a chief executive;

The remaining five 'area' *Länder* have a two-tier system without the intermediate level of *Bezirksregierungen*.

Each *Bezierrksregierung* has a *Regierungspräsident* - appointed by the *Ministerpräsident* (State prime minister) - which oversees the various district departments.

All local government authorities have an elected council, i.e. the *Kreistag*, *Stadtrat* or *Gemeinderat* and a separate executive administration:

In the *Landkreise* the chief of administration is the *Lantrat*, who is elected either by the *Kreistag* or directly by the inhabitants. He combines the roles of head of the council, chief executive for the *Landkreis* and local chief executive for the *Land*.

In the *kreisfrei Städte* and the *kreisangehörige Gemeinden* the mayor (called the *Buergermeister* in a smaller municipality or the *Oberbuergermeister* in a larger town) is directly elected by the inhabitants. The mayor is mostly head of the elected council and chief executive of the municipality.

2. Legal development

Until 1960 the legislative control of spatial planning was a matter for the *Länder*. The enactment of the *Bundesbaugesetz* (federal building act) in 1960 introduced the first federal act regulating local land use planning. In 1965 the *Raumordnungsgesetz* (ROG) was passed, regulating supra-local planning. The *Städtebauförderungsgesetz*, which regulates urban renewal in particular, was added in 1971. Then at 1986 the *Bundesbaugesetz* and the *Städtebauförderungsgesetz* were combined together in a single planning code, the *Baugesetzbuch*.

Each of the *Länder* has its own *Landesplanungsgesetz* (State planning act). These acts must take the provisions of ROG into account. Differences between the *Länder* occur especially in the area of regional planning, which in some is determined more at the *Land* level, while in others it is devolved to joint agreement between the local authorities concerned. In reality, the bulk of the important legislative power has been vested in the *Bund*, but the *Länder* have exclusive legislative competence for building regulations.

The procedures of spatial planning at the local level are regulated by the *Baugesetzbuch*, BauGB, which applies uniformly across the country. The actual contents of the land use plans are matters which are solely the responsibility of the *Gemeinden*, within the framework of the law.

3. Spatial planning structure

The most important legislation governing the planning are the ROG, enacted in 1965 and renewed in 1998, and the BauGB, enacted in 1986, both subsequently amended. Important is also the *Gegenstromprinzip* (counter-current principle) whereby each planning level must take account of the objectives of higher-level plans. At the same time, each lower planning level must be allowed to participate in the preparation of plans at the next higher level.

The *Bund* adopts only very general regulations to guide spatial development policy. This is done in close co-operation with the *Länder*, via the *Ministerkonferenze fuer*

Raumordnung (standing conference of *Bund* and *Länder* ministers for spatial planning). The *Bund* also carries out a detailed report on spatial planning and related issues, the *Raumordnungsbericht*, which is laid before the federal parliament. The main spatial planning policy instruments at the *Bund* level are of a legal nature and comprise ROG, BauGB, the *Raumordnungspolitischer Orientierungsrahmen* and *Raumordnungspolitischer Handlungsrahmen* (guidelines and operational framework for spatial planning) as well as the federal sector plans.

The *Länder* are constitutionally responsible for the implementation of spatial planning, involving *Landesentwicklungspläne* or *Programme*, LEP/LEPro (State Development Plans or Programs). These plans and programmes are all essentially the same type of instrument, though their procedure, layout and content can differ between the *Länder*. LEP/LEPros include comprehensive, State-wide, spatial planning objectives and also function as documents for the co-ordination of all policies and decisions with a spatial impact in the Land. They comprise concrete spatial and sectoral objectives, presented at a scale of 1:500 000 (sometimes smaller). Usually they do not provide a definite timescale. Sector LEP/LEPros can be prepared for individual sector themes such as for recreation, waste disposal, transportation, nature conservation, landscape planning, settlement, etc. They are co-ordinated by the *Land* government. The LEP/LEPros are illustrated in a diagrammatic manner and supported by an explanatory text. They deal not least with objectives concerning the system of central places, axes of transport, communication and networks of settlement and areas of use; in terms of built-up areas and undeveloped open spaces.

Within the *Länder* are further prepared *Regionalpläne* (regional plans) for planning regions. It is a supra-local plan which groups all sectors of spatial planning together for a single region. The plan must take into consideration the objectives of LEP/LEPro and the guiding principles of ROG. These are then evolved in more definite form relating to the specific conditions of the region and transferred into regional development concept. The plan contains a descriptive document and a diagrammatic presentation together with an explanatory text providing the reasons for the plan. The descriptive document includes the objectives for the overall development of the region, statistical analysis and scenarios, spatial objectives for spatial and settlement structures, land uses, infrastructure locations and routes etc. as well as sectoral objectives and planning policies for the social and cultural sector, the economy, transport, nature conservation and the environment. The diagrammatic presentation (normally in scales ranging from 1:50 000 to 1:100 000) should illustrate the classification of areas into densely built-up areas, suburban and commuter belt, rural areas and structurally weak areas as well as axes and system of central places, further the designation of spatial uses between undeveloped open areas, especially 'priority areas' which must be protected and 'precautionary areas' which can be more closely defined in detailed plans. Important is also the designation of infrastructural locations and routes.

The State planning acts also contain the regulations and procedures governing the *Raumordnungsverfahren* (spatial planning procedure) which is required by the ROG. It is used to examine whether all significant development projects comply with the principles and objectives of spatial planning at *Land* level.

At the *Gemeinde* level the main spatial planning instruments are the *Flächennutzungsplan*, F-plan (preparatory land use plan) and the *Bebauungsplan*, B-plan (detailed land use plan). The BauGB contains the legal provisions regulating the contents and

procedures of these plans.

Generally, the F-plan must be prepared for the entire area of the *Gemeinde*. There is no fixed duration, but a period of 10 to 15 years is general. The plan is amended as conditions require, for example because of a new B-plan. It should show the following information 'to the necessary extent': zones for development, the level of development (site coverage, floorspace index, building height), infrastructure and service facilities, main transport and communication facilities, green areas, areas for agriculture, forestry, environmental and landscape protection, etc. The F-plan is therefore essentially a zoning plan. The scale of the plan vary normally from 1:5 000 to 1:25 000.

The B-plan provides the basis for the detailed control of the building development. (figure 13). It can be applied to virgin land to open it up or equally it can be prepared to cover areas already developed. The preparation of a B-plan must be developed out of the F-plan but in urgent cases it can be prepared before a F-plan has been adopted and approved. B-plans are needed where the *Gemeinde* expects or intends building development to take place. There is no fixed duration for a B-plan. It expires only when it is replaced by a new or amended B-plan.

A B-plan must include provisions covering the type and extent of land use, comprising the specific land use areas and scale of development, the areas of land to be covered with building and the areas required for local traffic purposes. If the plan includes these minimum contents it is called qualified, while a B-plan containing fewer designations is called non-qualified. A B-plan further has to show any protected areas and buildings and groups of buildings to be preserved. It may also include provisions in relation to the minimum dimension of building plots, maximum number of dwellings in residential buildings, reserved sites for special housing purposes, planting and landscaping, etc. Most B-plans include the above contents and regulate development in a very detailed manner. Such a plan comprises a plan map and a written statement, both of which are legally binding. It must also include a (non-binding) explanatory statement setting out the aims, purposes and most significant aspects of the plan.

In addition to the formal land use plans provided for under the BauGB a variety of other types of non-binding land use plans are to be found in German town planning practice. The names vary from city to city and may be called *städtebaulicher Entwicklungsplan* (urban development plan), *städtebaulicher Rahmenplan* (framework development plan) or *städte-baulicher Entwurf* (draft urban plan). They tend to be prepared in advance of the formal plans for which they provide the content in substantive terms.

The *Gemeinden* are thus provided with wide-ranging instruments to plan development. Any significant level of building outside of existing built-up areas can only be undertaken with the co-operation of the *Gemeinde*. However, since 1993, a binding land use plan, called the *Vorhaben- und Erschließungsplan* (project and infrastructure plan) can also be initiated and prepared by a developer/investor. The plan and attached contract can be adopted by the *Gemeinde*, thereby bringing the plan into force. The details of the implementation of the project are regulated in a legal contract between the investor and the *Gemeinde*.

Outside the plans regulated in ROG, in *Landesraumordnungsgesetze* (State planning acts) and BauGB there exist many sector types of plans with spatial influence. At the *Bund* level *Fachpläne* (sector plans) are prepared by respective Ministry and adopted by the parliament. The constitution entrusts the preparation of sector plans in many areas to the



Figure 13. Bebauungsplan (detail plan) of parts of Hagen (Larsson 1997)

Bund, including federal trunk roads, railways, inland waterways, facilities for airtransport and defence. The sector plans are bound by their respective legislation and are to be coordinated between the *Bund* and the *Länder*. They are also to comply with the spatial planning at the *Bund* and *Länder* level. Lokal land use planning must be adopted to the higher level sector plans.

4. Process

The preparation of an LEP or LEPro involves the participation of the other *Landesministerien*, the local government authorities, the other public agencies and the authorities or agencies responsible for regional planning. In some of the *Länder* these authorities and agencies are represented on a planning conference or board, which is formed to supervise or to advise the preparation of the LEP/LEPro.

A *Regionalplan* is prepared by the authorities or agencies who are given responsibility for regional planning of each *Land*, either a department within the *Bezirksregierung* or a

Regionaler Planungsverband (regional planning association), made up of representatives of the counties and the municipalities in the region. In all cases the local authorities are closely involved in the preparation in accordance with the *Gegenstromprinzip*. The plan is not a static plan but has to be reviewed according to changing conditions and in some *Länder* within prescribed periods.

The *Raumordnungsverfahren* is an internal co-ordination procedure for public authorities. It serves as an instrument to examine large-scale public and private development proposals, such as the location for a new airport, a new holiday village, etc. and to see whether they comply with the principle and aims of ROG, the *Landesplanung* and the requirements of other plans. An environmental impact assessment may be included as part of the procedure. One of the main objectives of the procedure is to compare the advantages and disadvantages of alternative locations for the proposed development.

At the *Gemeinde* level the procedure for preparing an F-plan are similar to those for preparing a B-plan. The main steps are:

- Preparatory phase. The preparation of draft ideas and consultations with higher administrative authorities. The decision to prepare a plan is passed by resolution of the elected council of the *Gemeinde*.
- First phase of public participation. This should take place as soon as possible. It involves informing the public in general and people directly affected in particular. It includes opportunities for public comment and discussion. Public agencies and the neighbouring *Gemeinden* are informed and participate at the same time.
- Preparation of the draft plan and consideration phase. 1. The assessment of whether the draft plan complies with higher plans and ordinances. 2. The assessment of the environmental impact of the proposals. 3. The consideration and balancing of public and private interests, taking into account all comments put forward.
- Second phase of public participation. The draftplan is displayed public for one month and the public is invited to make written or verbal comments. All comments are considered and if new issues arise the plan is reconsidered.
- The adoption and approval stage. The plan is passed by the elected council, for a F-plan by ordinary resolution, for a B-plan by a local statute. All F-plans have to be approved by the next higher State authority, which checks that the plan contains no procedural or legal mistakes. A B-plan which is not developed from an F-plan needs approval from the next higher State authority, which is not the case of an ordinary B-plan.
- The *Gemeinde* publicly announces the approval.

Any amendments to the plan or the annulment of the plan follow the same procedures.

Most sector planning also follows procedures stated in respective special laws. Major supra-local infrastructure projects (motor ways, inter-city railways, etc) are planned at the *Bund* level and have precedence over local land use planning. The *Bundesverkehrswegeplan* (federal transport infrastructure plan) thus provides a graphic indication of the major proposed transport routes. They are subsequently translated into more detail by a second planning stage - the *Linienbestimmung* (designation of the line). The specifying of the exact route is done by the *Planfeststellungsverfahren* (statutory plan

approval procedure). It is based on the detailed technical plans for the project and is undertaken for the approval of all major public projects. It is carried out by the relevant authority of the *Länder*. It involves a multi-stage process which includes participation by the public and other public authorities and agencies. It also includes environmental impact assessment of the project. At the end the building permission and the detailed plan for the project are 'fixed' in a legally binding administrative act.

In general it might be said that public participation nowadays is seen as important in most spatial planning in Germany. The preparation of plans and programmes at the *Länder* or regional levels is not legally required to provide for public participation. Nevertheless, a special advisory board or council, called a *Planungsbeirat*, participates in plan preparation in all cases. This board includes representatives from the local authorities, industry and commerce, the nature conservation associations and usually the citizen groups within the area. The laws governing certain areas of sector planning require public hearings for planned major infrastructure projects. Concerning local plans the procedures for public participation are contained in BauGB. The same level of participation is foreseen for both the F-plan and the B-plan. This involves two phases. The first occurs at the beginning of the planning process, where the public are to be informed and to be given opportunity to discuss the aims of the plan. The second phase occurs when the draft plan is displayed for a period of one month. The public may submit representations and objections, which must be considered by the municipal council. Persons whose legal rights are likely to be injured by a decision of a public authority (including the adoption of a B-plan or the issue of a building permit) can appeal the decision to the courts.

5. Legal status

Each planning level must take account of the objectives of higher level plans. At *Bund* level, ROG sets out the framework of aims and principles which are to guide the spatial planning policies of the *Länder* and *Gemeinde*. Each of the *Länder* has to transform the aims of the ROG into their own *Landesplanungsgesetz* (State spatial planning act) and into more concrete form in their LEP or LEPro. In this way the framework spatial policy of the *Bund* becomes binding on the *Länder*. The main objectives of a LEP/LEPro are adopted as legislation by the *Länder* and are binding on the *Gemeinden* and other public authorities.

The *Regionalpläne* are evolved from the LEP/LEPro and provide a broad spatial framework for specific regions. They are adopted as legal ordinances and specific aims contained in the plans are binding on the *Gemeinden* and other public authorities (but not on private individuals or companies).

At the local level the F-plan must take into account these aims and objectives of a higher level. The plan itself is binding on the municipality and other public authorities. The graphic diagram and the written statement of a F-plan are binding on all public authorities and agencies (but not on private individuals or companies).

The B-plan forms the second level of the local land use plan hierarchy and provides the basis for the detailed and legally binding control of building development. The preparation of a B-plan must be developed out of the F-plan. If it is not it must be approved by the next higher State authority. The provisions of the B-plan are legally binding on all public authorities and agencies and on all private individuals and companies. It forms a legal basis for the assessment of an application for building permit. The binding nature of the B-plan has led to the situation that, in some *Länder*, one need not

apply for a building permit for housing proposals in areas designated for housing in the plan. It is also important for use of pre-emption and expropriation rights. If certain works are provided for in a B-plan, the *Gemeinde* may further use special orders to require property owners to implement the works. Thus, the *Baugebot* (building order) can be used in area covered by a B-plan or in built-up areas to force owners to build on their plots within a certain time, for example because of urgent demand for housing. Also *Pflanzgebot* (planting order) is widely used to require an owner to undertake planting measures designated in a B-plan for their property.

Under certain conditions dispensation from the conditions of a B-plan is allowed. This will be treated in connection with building permit.

6. Implementation and control

There are a number of mechanisms provided in the BauGB to implement a B-plan. Broadly, there are three types of mechanism:

- Active development mechanisms comprising:
Erschliessung, städtebauliche Entwicklungsmassnahmen, Bodenordnung;
- intervention mechanisms comprising:
preemption and expropriation rights and *städtebauliche Gebote;*
- reactive mechanisms comprising:
Veränderungsspärre, Zurueckstellung von Baugesuchen.

The last ones open a possibility to freeze development and postpone building applications during the preparation time of a B-plan until the plan actually comes into force.

The *Gemeinden* may acquire land by compulsory purchase or by pre-emption. Compulsory purchase is only used as a method of last resort. Apart from ordinary pre-emption dealings (covered by civil law), the BauGB gives *Gemeinden* the right to use pre-emption in special cases, provided it is in the public interest. This can be where land is designated for public use (for streets, schools, etc.) in a B-plan or for public and other uses in an area specially designated by a local statute. However the *Gemeinde* must resell the land as soon as the intended project can be implemented.

Städtebauliche Gebote are used by the *Gemeinde* to urge owners to undertake works which are provided for in the B-plan. A building order can thus be used for important urban development reasons if the owner has economic ability to build. Other orders are modernisation order, demolition order and planting order.

Erschliessung (local infrastructure provision) are the responsibility of the *Gemeinde*. Landowner cannot legally require it to provide local infrastructure, even for an area within a B-plan, but they can offer to do it themselves by contracting. Land that has not been provided with local infrastructure may not be built upon. The *Gemeinde* has a right and duty to impose a charge on landowners to recover the costs of local infrastructure.

The *Gemeinde* can formally designate *städtebauliche Entwicklungsbereiche* (urban development zones). The designated zones are usually greenfield sites or large derelict sites. The *Gemeinde* has then to purchase all plots of land which are required for new development. The price to be paid for these plots is the present use value (e.g. agricultural value). Landowners who guarantee to implement the required new development may retain their plots, but may be liable for betterment charges. The *Gemeinde* reorganises the

plots to provide plots suitable for the intended development and provides the local infrastructure. All plots are then sold by the *Gemeinde* to investors/builders.

Bodenordnung (reorganisation of properties) to provide plots suitable for building may be done as *Umlegung* or *Grenzregelung*. The last one is used within a B-plan to readjust the boundaries to provide suitable plots, if the plots otherwise would be incapable of being built upon and if the loss in value incurred by an owner as the result of the adjustment is minimal. *Umlegung* is started by a resolution by the elected council of the *Gemeinde*. The land required for local infrastructure is identified. The remaining land is then returned to the landowners in reorganised suitable plots in proportion to everyone's earlier land area or land value.

The *Gemeinde* can thus stimulate implementation by providing land and infrastructure and by reorganise land. Some *Gemeinden* leave, however, land policy entirely to market forces. Others use the measures mentioned above and operate further a policy of land banking, in which they maintain a supply of land. Generally, the *Gemeinden* use long-term land banking to provide for commercial and industrial sites. But mostly, they are active builders only in connection with the provision of public facilities, infrastructure and amenities, not in housing construction. Development can also be stimulated by a more active public-private partnership, maybe in the form of *Vorhaben- und Erschliessungsplan* and/or by urban development contract.

The construction of owner-occupied housing is undertaken mainly by the private sector and by the householders themselves in the more rural parts. Private investment companies and individuals are also active investors in the higher end of the rented housing sector - for middle to higher income groups. Housing associations are major actors in the German housing markets in the towns and cities. These associations include *Wohnungsbaugenossenschaften* (non-profit housing co-operatives), *Wohnungsbaugesellschaften* (municipal-owned housing associations) and *gemeinnützige Wohnungsunternehmen* (semi-public housing companies). The *Landesentwicklungsgesellschaften*, LEGs (State development companies) are major property developers in the housing, commercial, industrial and leisure sectors. They are particularly active in inner-city redevelopment and renewal and in the redevelopment of derelict industrial land. A distinct feature of German housing policy is that the public sector provides subsidies to private investors and the housing associations to construct 'social housing' for low-income groups.

Generally, B-plans are only prepared where the *Gemeinde* expects or intends building to take place. The provision of public infrastructure (roads, water, sewerage) for new development areas is the responsibility of the *Gemeinde* and normally requires the existence of a B-plan. Before building, however, a *Baugenehmigung* (building permission) must be received. In Germany, such permission is required for basically all larger new buildings, extensions, alterations to buildings and changes in the use of buildings. The BauGB provides the rules for the assessment of whether a particular development is permissible or not according to its location in:

- areas covered by a B-plan;
- existing built-up areas where there is no B-plan;
- the *Aussenbereich* (surrounding undeveloped areas without B-plan).

In the first case, the plan must be a B-plan covering the type and extent of land use, comprising the specified land use areas and scale of development, the areas to be covered with buildings and the areas required for local traffic purposes. Approximately 60 percent of all building permissions are issued in areas covered with such a plan. The following

description deals in the first place with such a case.

Preliminary discussions with the *Baugenehmigungsbehörde* (building permission authority, a department in the administration of the Landkreis or the kreisfrei Stadt) and with the *kreisangehörige Gemeinden* where relevant, should be undertaken before an application is made. It is also advisable to first make a *Bauvoranfrage* (preliminary application) to check in principle whether it is possible to undertake the development proposed. Once a positive decision is received, an official application for a permit, with full details can be made. Application for a such are submitted to the *Baugenehmigungsbehörde* in question.

An application must be made in writing, usually on a standard application form. It must be accompanied by the necessary documentation to enable the application to be considered. Generally, this includes a description of the proposal, detailed plans showing the type of development, its scale (including floorspace calculations), its exact location and other plans and documentation as necessary. The application has to be signed by both the applicant and a qualified professional architect or engineer (not needed in the case of detached single family houses, small domestic facilities, etc.). An environmental impact assessment is necessary for a listed special group of development projects.

A development is permissible where it complies with the building contents of a B-plan and the provision of the local infrastructure has been secured. The *Baugenehmigung* is to be granted unless the development is in contravention of regulations under public law, including the B-plan. Some exceptions and dispensations are, however, allowed and sometimes the B-plan must be changed. Conditions may be attached to the permit. Most applications are decided upon by civil servants from the authority, as the B-plans usually are very detailed. Building operations may only commence when the written *Baugenehmigung* has been received. All documentation and plans must be kept available at the building site once building commences.

In most of the *Länder* the construction of simple family homes and smaller housing units within an area covered by a B-plan does not require a permit, only a notification to the authority of the proposal. Owner and architect must certify that the project complies with plan and regulations.

An applicant who is refused a *Baugenehmigung* or who wishes to dispute the conditions attached to it can make an appeal, based on public law, inclusive the B-plan. Furthermore, the decision being appealed against must be shown to have been illegal and to have injured the legal rights of the applicant. Also a third party may appeal but must show the same. An appeal is made to the *Baugenehmigungsbehörde* which have to re-examine the legality of its decision and may thereafter pass to the *Regierungsbezirk* or the *Landesministerium*. Where the appeal is refused it is still common that a legal action is commenced, lodging an action with the *Verwaltungsgericht* which will examine all the grounds and documents relevant to the dispute. This involves a formal hearing. The decision of this court can be appealed to the *Oberverwaltungsgericht*.

The process of a *Baugenehmigung* within buildt-up areas without a B-plan is essentially the same as what is described above. Development is permissible if it fits-in (or blends in with) the characteristic features of its immediate surroundings in terms of type and scale of development, type of building and the extent of the site covered by buildings. The provision of local infrastructure must also be available.

A *Baugenehmigung* in the surrounding undeveloped areas without a B-plan or rural areas will only be allowed for certain privileged types (serving agriculture, provision of

public utilities, commercial or industrial operation bound to the area, etc). It must further not conflict with the public interests and the ample provision of local infrastructure must be secured. Developments must comply with the objectives of the *Regionalplan* and the *Länder* spatial plans and programmes. The processing of application is similar to that for the main permit.

In an area covered by a B-plan a building permit must as mentioned normally be in accordance with the plan. A *Befreiung* (dispensation) may however be permitted in certain circumstances, for example in relation to building height or increased density. The granting is at the discretion of the *Baugenehmigungsbehörde* and may be granted where it is in the public interest and where the basic intention of the B-plan is not affected or where the implementation of the plan would result in evident hardship and, having considered neighbours' interest, the dispensation does not contravene public good. The grantings of minor dispensations occur quite often.

A certain control is also practised by *permit to subdivide* land which earlier was necessary in a great many cases but nowadays mainly is needed in designated *Sanierungsgebieten* (redevelopment areas) and in *städtebauliche Entwicklungsbereichen* (urban development zones). Application for permission is made to the *Gemeinde*.

7. Renewal, heritage, environment

The BauGB provides the *Gemeinden* with special measures for urban regeneration. Underlying the measures is the principle that *Sanierung* as an ordered process can only be initiated and implemented by the *Gemeinde*. The law arranges for preparatory investigations and public participation in order to establish the need for implementation of the urban redevelopment measures. When this need has been established, the elected council of the *Gemeinde* formally designates a *Sanierungsgebiet*. Once it has been designated, all building works, demolition, changes of use, transfers of ownership and the subdivision of land requires the approval of the *Gemeinde*. The redevelopment measures are implemented under a B-plan or a *städtebauliche Rahmenplan*, which is similar to, though more flexible than, a B-plan. A *Socialplan* is also drawn up, consisting of a plan for a temporary relocation of persons or businesses affected by the redevelopment and can include financial allowances for hardship incurred.

Finance for the redevelopment measures is provided by an agreed proportion from the *Bund*, the *Land* and the *Gemeinde*. Normally, each provides one-third of the costs for measures such as new streets, traffic calming, the provision and improvement of facilities and amenities. The improvements to private properties are carried out by their owners, who receive the assistance of a range of public subsidies and tax incentives.

Urban regeneration can also be implemented without the BauGB redevelopment measures, in which case there are no special restrictions on landowners. Many *Gemeinden* do not undertake the actual redevelopment themselves but set up or call in special *Sanierungsträger*, which is usually a semi-public, non-profit agency.

Today, great urban renewal is most urgent in the new eastern *Länder*. A problem is, however, that the decreasing of the population there causes that more than a million flats currently are empty which gives an economically weak bases for costly renewal.

Renewal is an important aim not only in urban but also in rural areas. Since long there have been important activities, especially in the middle and southern Germany, to improve the agrarian structure by means of *Flurbereinigung* (land consolidation). The earlier

common system with subdivision of the village area in narrow parcel strips has to a great part been replaced by a few larger fields for every farm, structured along new-established systems of fieldroads and drainage. The most immediate needs have been covered, but the activities are still great, not least in connection with repairing structural damages caused by new or altered roads and railways. Most of the *Länder* have established special authorities at regional level for these purposes, and these authorities prepare plans and assess applications for the improvement, reallocation and exchange of landholdings to make them more suitable for agricultural use.

Other elements for structural adaption of agriculture are withdrawal of land from agricultural production and promotion of extensive farming in accordance with the EU policy to decrease overproduction. Along the same line are designation of reforestation areas in the region plans, also motivated from nature conservation viewpoints.

Safeguarding *cultural heritage* is mainly a responsibility of the *Länder*. They prepare the lists of monuments, in which building monument and other artefacts are registered. All building monuments must be identified in spatial plans. The *Bund* supports the *Länder* in their implementation of these tasks, especially by means of taxation legislation, under which tax relief is available in certain circumstances for investments in monuments and their preservation. Since reunification, the *Bund* and the new *Länder* have jointly adopted a program for *städtebauliche Denkmalschutz*, the help of which promotes the preservation and renewal of historical town centres. In this way many of the historically important towns in the new *Länder* are renewing their former splendour, for example Dresden, Weimar, Stralsund, Erfurt and many others.

At local level, heritage policy is implemented by means of conservation-oriented urban renewal and the identification of conservation areas. In relation to the latter, the *Gemeinden* can designate *Erhaltungsgebiete* (preservation areas) within which the demolition and alteration of built structure requires special permission.

The protection of the *environment* is a central element of *Bund* and *Länder* policies. The policy areas of the environment, nature conservation, protection of resources, waste management and pollution control are very closely integrated. This is highlighted by the grouping of the policy area in the *Bund* and *Länder* ministries.

One of the tasks of environmental policy is to ensure that ecologically sensitive areas are protected from harmful effects. The conservation of nature and the countryside is governed by the *Naturschutzgesetze* at *Bund* und *Länder* level. Their main objectives are the protection of areas from uncontrolled development by the designation of protection areas, landscape planning and the need for permission under nature protection legislation. In areas designated for nature conservation, development is not allowed or strictly restricted. There are essentially five types of designated areas:

- *Naturschutzgebiete* (nature conservation areas). This is the most restrictive area of protection, covering slightly less than 2 % of Germany;
- *Nationalparke* (national parks), correspond in many ways to the *Naturschutzgebiete* but are greater in size and cover also around 2 % of the country;
- *Landschaftsschutzgebiete* (landscape protection areas). This category of protection contains less restriction on other uses and covers about 25 % of the country;
- *Naturparke* (nature parks) are established primarily because of their landscape quality and their suitability for recreation. They cover over 15 % of the country;

- *Biosphärenreservaten* (biosphere reserves) provides extensive areal protection for valuable natural and cultural monuments and cover more than 3 % of the country.

Landschaftsplanung comprises the preparation of a *Landschaftsprogramme* for the entire area of a *Gemeinde*, and the *Landschaftsplan*. In some *Länder* the plan is advisory, in others the plan may contain binding provisions.

The law also provides for the protection of plants, animals and natural resources. *Wasserschutzgebiete* (water protection areas) are designated by the *Länder* for protection of fresh water and groundwater resources. The law also provides legislation for *Historische Kulturlandschaften*. The coastal areas of the North Sea and the Baltic Sea are normal planning areas, the same as any other in Germany. Much of the North Sea coast and parts of the Baltic Sea coast are designated *Nationalparke*.

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Ireland

1. Administrative structure

Ireland is a republic where the *Oireachtas* (National Parliament), consisting of the President, the house of representatives and the senate, have the power to make laws. The Government has the executive power, carrying laws into effect. Legislation may be superior or subordinate. Superior legislation is enacted by the legislative, while subordinate legislation is laid down by a body or person to whom superior legislation has delegated power. The Local Government (Planning and Development) Acts are thus superior legislation, which also empowers the Minister for the Environment to make statutory instruments covering planning and development. Thus, planning and development regulations and directives issued by this Minister have the force of law. The Ministry is responsible for the formulation of planning policy and the overall administration of the planning system. Other governmental departments may also play significant roles in relation to development planning, as the Department of Agriculture, Food and Forestry, the Department of Arts, Culture and the *Gaeltacht*, the Department of Enterprise and Employment and the Department of Transport, Energy and Communications. For advice, support, co-ordination and implementation there further exist different governmental organisations such as the National Heritage Council, the Environmental Protection Agency, the National Roads Authority, etc.

For administrative purposes, a wide range of different *regions* exists within the country, involving the grouping of a number of counties or parts thereof, what has effectively resulted is considerable confusion about regional boundaries which mitigates against joint action and the establishment of strong regional identities. A tier of regional authorities came however into effect 1994. Their objective is to perform in the region such functions in relation to the co-ordination of the provision of public service in the region as are confirmed on it. Eight new authorities have thus been designated. Each of the authorities comprises city and county councillors appointed by the relevant local authorities in each region. Each authority has an operational committee to assist it.

Concerning *local* authorities, there are 114 directly elected bodies which comprise the Irish local government system. Only 88 of them are separate planning authorities: 29 county councils, 10 county boroughs and borough corporations and 49 urban district councils. Their main functions include housing and building, road transportation, water supply and sewerage, development incentives and controls, environmental protection, recreation and amenity, agriculture, education, health, welfare and in general to act in the community interest. The overall control of the local authority is vested in the elected council, while day-to-day administration is in the hands of a manager and staff.

2. Legal development

The planning system in Ireland has been operational since 1964 after the enactment of the Local Government (Planning and Development) Act the year before. Prior to the

1963 Act, there had been some attempts to establish a statutory planning system, through the Town and Regional Planning Acts 1934 and 1939. The application of these acts was limited, as they needed to be specifically adopted by individual local authorities before coming into operation.

In the 1960s a political commitment to a new role for planning developed. Planning was seen as an instrument through which the country could maximise natural resource utilization and economic development. The 1963 Act established a country-wide planning system which remains intact today, save for a number of important additions. One is the permission to the Minister for the Environment to issue such general directives as to policy in relation to planning and development as he considers necessary. Another is the creation of *An Board Pleanála*. It determines appeals and references (whether a development is exempt from the requirement of obtaining planning permission or not) which was formerly decided by the Minister for Environment. *An Board Pleanála* is an independent body. It must state reasons for its decisions and must note the policies of public bodies, the activities of which have a bearing on the proper planning and development of an area. A third important addition is the radical change to the compensation system introduced in 1990. Further, new laws with bearing on planning and development have come into force, for example the Urban Renewal Act 1986, the Building Control Act 1990, the Environmental Protection Agency Act 1992 and the Roads Act 1993.

3. Spatial planning structure

Physical planning in Ireland is primarily a local government activity. While the Department of the Environment has the power to issue national planning policies, planning directives and guidelines, physical planning has remained largely a local activity in the hands of the individual planning authorities. Ireland does not operate a *national* physical planning activity per se. However, each government department and most State bodies undertake investments which have a spatial dimension and have definite planning implications at local level. Thus, The National Development Plan - which is inter alia Ireland's submission for structural funding - details the major investment programmes likely to be considered for action during the plan period. Even more precisely, the EU support framework for Ireland details the programmes, which are to receive funding. In a number of respects, these two complementary documents lay down the broad bones for a national strategy. For the most part they provide details as to the physical nature of their proposals and all such physical projects will be subject to normal planning processes as they come on-stream.

While *sub-regional* reports were earlier prepared as an input to the National Development Plan, these documents had no independent role, nor did they influence local planning. Many government departments and agencies have regionalized some of their activities, but there has been little of horizontal co-ordination at regional level. The eight regional authorities established 1994 are required to prepare regional reports. Such reports can represent a beginning of a co-ordinated regional spatial analysis of the activities of the various development agencies within the country.

Physical planning is, however, primarily a *local* government activity. The Local Government (Planning and Development) Act 1963 required each of the country's planning authorities to make a *development plan* for their functional area and to review

it at least once every five year. In practice, it has been difficult for many planning authorities to adhere to this tight schedule. In addition, the county level planning authorities are required to make (and to review) separate development plans for any scheduled town within their area.

The development plan is the most important policy instrument at the disposal of the planning authority. Its aims are to promote and encourage development, to conserve, protect and improve the environment and to make the best possible use of resources. The plan consists of maps and written statements and must include certain objectives. In the case of urban areas, the objectives are for

- land use zoning, that is, the use solely or primarily of particular areas for particular purposes;
- provision of car parking, road improvements, etc.
- the development and renewal of obsolete areas and preserving, improving and extending amenities.

For rural areas, objectives must be included for

- the development and renewal of obsolete areas and the preservation and improvements of amenities;
- the provision of new water supplies and sewerage services together with the extension of such existing supplies and services.

The plan may also contain objectives relating to roads and traffic, structures, community planning and land-use zoning outside the towns.

The written statement of the development plan should fall into two sections: strategy and details. The strategy section should relate to development over the coming 20 years. The objectives of the strategy section provide the foundation for the detailed section dealing with land use, engineering services as roads, water, sewers, waste and specific objectives concerning works, protection, etc. The detailed section also contains the methods for implementation over the five year plan period. In addition, it usually includes the standards which will apply to development, i.e. residential density, private and public open space needs, car parking, etc., lists of buildings, structures or areas of preservation interest and use zoning. It is usual to give uses that are permitted, open for consideration or not permitted.

In cases where a planning authority wishes to expand part of its development plan to provide greater detail in an area, where it anticipates significant development, the authority may prepare an *action area plan*. These action plans facilitate the identification of specific projects and buildings which have development potential, allowing a more detailed planning approach.

In addition, many types of sectoral planning will also influence the spatial planning. Policies concerning for example main road and railway network are, in general, articulated at national level and are implemented by State or Semi-state agencies, such as the National Roads Authority, etc. The operational programme for transport is underpinned by the submissions from the sub regional review committees.

4. Process

Only the planning processes at the local level are outlined in the planning law and regulations. The making or varying of a *development plan* is a reserved function of the local authority. Thus, only the elected representatives (councillors) make, or make

amendments to, the plan. The procedures for making or varying a development plan are the same.

The local authority's technical planning staff or planning consultants prepare background reports and surveys on various planning issues prior to the drafting of the plan. The staff or the consultants then prepare and present a draft plan for consideration by the elected representatives. To finalise a draft may take many months of discussion between planners, other staff and elected representatives. These may comment on it and make alterations before approving it. After approval copies of the draft plan are sent to a number of prescribed authorities and a copy is placed on public display for a period of not less than three month. Owners and occupiers of any building structure which has been listed for preservation in the plan or of any land on which the local authority is preserving a public right of way are specially notified. During the public display, any person may make an objection or representation relating to the draft and any ratepayer is allowed to request that their objection be heard orally by a person appointed for this purpose by the planning authority. All written and oral objections and representations are then reported to the elected representatives for their consideration. If they decide to revise the draft plan the revised draft must be put on public display for one month. Written representations to the amendments are so considered before the development plan is finally adopted by the representatives.

An *action area plan* is usually prepared by the planning staff of the local authority. It may, or may not, be adopted by the authority, using the same procedure as used for the adoption or variation of the development plan. Appeals against planning decisions may be raised to *An Board Pleanala*. Even third parties have this legal right.

5. Legal status

Once the *development plan* is made, it is used by planning authorities to control and direct development over the plan period. In Ireland the development plan produced by the planning authority does not carry with it the express granting of development rights. The plan provides, through zoning provisions, a framework of the type of development permissible in various areas. The planning authority must pursue the objectives contained in the plan even if it is not followed in details. Likewise, in deciding to grant permission the planning authority must take into account the provisions of the development plan. But the plan, while legally binding, offers degree of flexibility. An application for a permission which materially contravenes the plan may be granted by resolution of elected members, if it is considered that it is not contrary to the proper planning and development of the area. In this case, the planning authority must advertise its intention to grant permission. It must also fully consider public representations made in respect of the proposed contravention. Figure 14 illustrates the needed procedure. Where permission is granted, the land-use zoning of the plan is not altered. Subsequent non-conforming applications for developments on the site that materially contravene the zoning are required to follow the same procedure as required in the original contravention.

If an *action area plan* is adopted, it has the legal force of a development plan and the planning authority will be bound to implement its objectives. Many action area plans are however not adopted but provide guidance in a detailed manner for prospective developers.

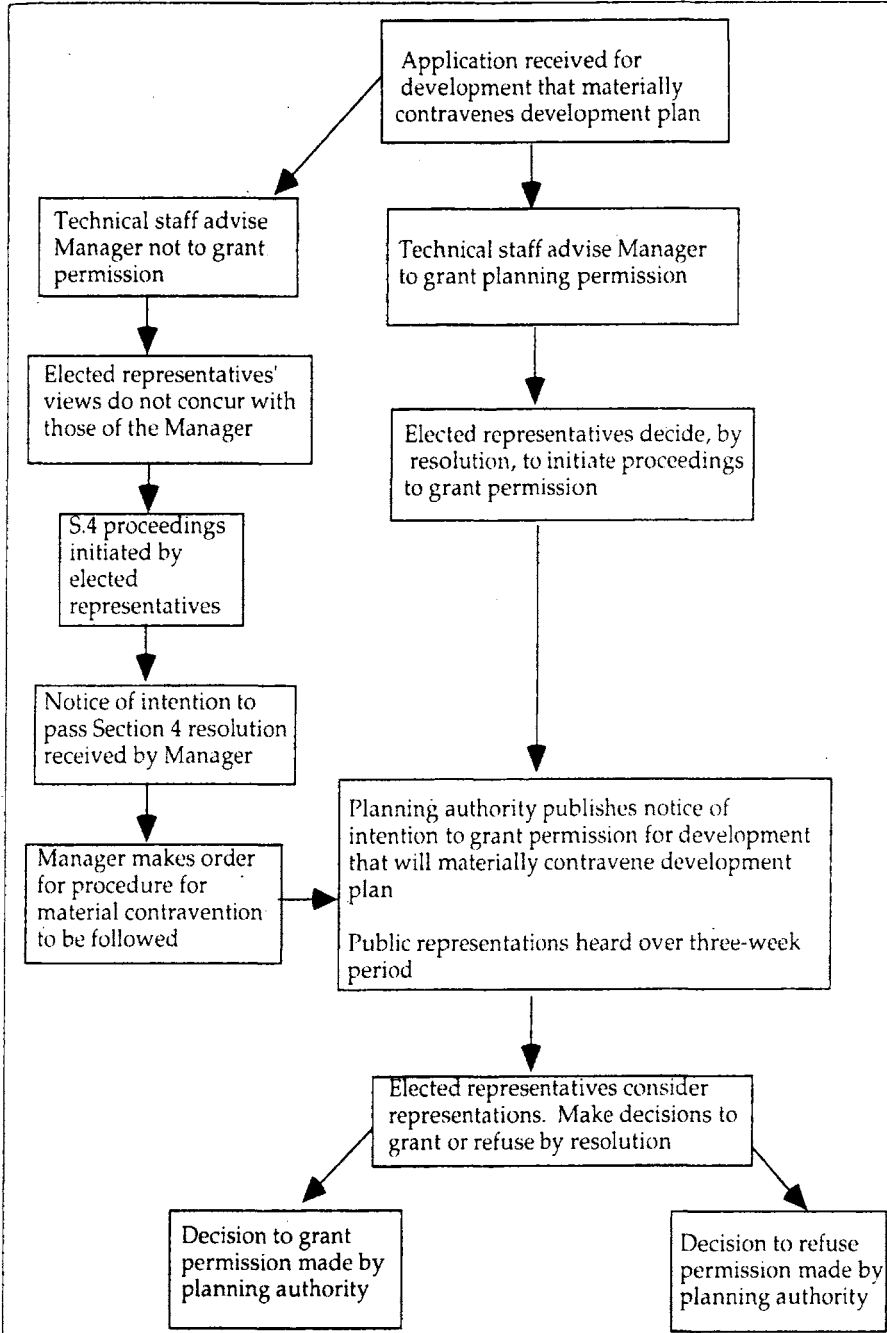


Figure 14. Procedure to handle the departure from an Irish development plan

6. Implementation and control

Development in Ireland is overwhelmingly (over 80 %) privately financed. Those involved in the development process tend to be private developers, State or Semi-State bodies. The implementation of EU Structural Fund programmes places particular emphasis on partnership arrangements. Due to fiscal restrictions, very few planning authorities are directly involved as developers. But they may direct development through the objectives of their plans, most specifically through the zoning process. Where market demand increases in an area for particular type of land use, e.g. residential, and the use is considered necessary by the planning authority, land can be zoned or re-zoned for this type of development. However, if the demand is only perceived and the development proposed is speculative and contrary to proper planning and development, the planning authority will be likely to resist strongly requests for re-zoning.

Local authorities may acquire land by agreement or compulsorily, whether situated within or outside their functional area, to fulfil any of their powers, duties or functions. The authorities are allowed to build up a land bank which is convenient for development. Strategically placed land can be acquired before the local authority has any objectives for the area concerned. They are also allowed to enter into partnership with any person or body for the development or management of land. However, these positive powers have been used infrequently. A local authority acquiring land compulsorily may be authorised to do so by means of a compulsory purchase order made by the local authority. The order is then submitted to and confirmed by the Minister for the Environment. A number of statutory bodies, other than local authorities, also have power of compulsory acquisition. Development plans contain objectives for the provision of local authority housing, for the refurbishment of existing local authority houses and for the promotion of the various social housing options.

The planning authority is obliged, subject to the availability, to pursue its short-term adopted objectives, to provide roads, sewerage schemes, parks, amenity schemes, etc.

All development requires *planning permission* with the exception of development which, in the option of the Minister for the Environment, is required for the purposes of public safety, the administration of justice or national security. Most minor exterior works and all interior works are exempt, unless the building is listed for preservation in the development plan or is located in an area to which a Special Amenity Area Order applies.

When it has been established that planning permission is required for a development, an application for permission to develop must be submitted to the planning authority, normally the county council or corporation. An application for full planning permission must be accompanied by such plans and particulars necessary to describe the development. Particulars of the land or structure concerned, the area of the land, interest held in the land/structure by the applicant, numbers of dwellings or the gross floor space of the buildings, etc. must thus be specified. Certain types of development may also require an Environmental Impact Assessment, traffic studies, etc. There is however also a possibility to apply for an outline permission which does not need as detailed application as full permission. The purpose of the outline planning procedure is to enable the developer to discover, whether a particular development is,

in principle, acceptable to the planning authority. An outline permission sets the limits of the development.

A planning application must be made to the planning authority in the first instance and an applicant must advertise his intention to seek planning permission by a notice in a newspaper circulating in the area and by erecting a site notice. The authority may give notice to certain authorities such as the National Roads Authority or the Environmental Protection Authority. It then has to consider the proper planning and development of the area, the provisions of the development plan, any relevant ministerial policy directives, the contents of any Environmental Impact Assessment and all written representations and objections made by the public within a specified period. The authority may so decide to grant permission, to refuse permission or to grant permission subject to specified conditions. It may attach any conditions to the permission which serve a reasonable planning purpose in relation to the development permitted. Conditions may also include carrying out of works considered by the planning authority to be required, including the development and provision of open space.

Where it is shown that, as a result of a planning decision, the value of any person's interest in land to which the decision relates has been reduced, compensation may be payable. However, in some instances, specified in Law, such compensation is not payable. Where permission has been refused or is granted subject to conditions, the owner of the land may further claim that the land has become incapable of reasonable beneficial use in its existing state. The owner may then require the authority to purchase his interest in land.

Appeals may be made to *An Board Pleanaia*, the planning appeal board, by the applicant or any other person. The Board may decide to uphold the decision of the planning authority, to reverse it or to alter, delete or add to the conditions attached to it. The decision of the Board may be appealed to the High Court, but only on legal or procedural grounds.

A developer may require additional permits. For certain activities, an *Integrated Pollution Control License* must be obtained from the Environment Protection Agency. An industrial plant license and licences in relation to water pollution, air pollution and waste management may be granted by the local authority. Other kinds of permits are foreshore licences (for development on State foreshore), fish farming licenses and building control permits. Projects must conform to the building regulations. A commencement notice must also be submitted to the local authority by a developer in respect of a development that is subject to the building regulations.

7. Urban renewal, heritage, environment

The powers granted to local authorities can be used extensively for the *renewal* and development of urban areas, in co-ordination with the stated policy objectives of their development plan. According to the Urban Renewal Act, 1986, The Minister for the Environment may, with the consent of the Minister for Finance, by order, declare an area to be a designated area, where he is satisfied that there is a special need to promote urban renewal therein. The Finance Acts set out a range of tax incentives for development in designated areas. Development which qualifies includes residential, commercial, office and industrial uses. The incentives provided are confined to limited

areas in order to maximise their impact in prominent strategic locations. The tax incentives offered include a capital taxation allowance in respect of expenditure on construction of a dwelling, a double rent allowance against trading income for traders leasing buildings and capital allowance for commercial developments. The urban and village renewal subprogram will also support village renewal including the maintenance of traditional farm buildings and rural heritage. The measure is co-financed by funding from the European Agricultural Guidance and Guarantee Fund. A special scheme has also been introduced to tackle the structural defects in certain classes of local authority housing.

The National Monuments Acts provide the legal basis for the management of archaeological and architectural *heritage*. Under these acts a number of powers are given to the Office of Public Works, OPW, and the Minister for Finance (which are now vested in the Minister for Arts, Culture and the *Gaeltacht*) for the preservation of national monuments. With the consent of the owner, a monument may be placed under the guardianship of the OPW or, with the consent of the local authority, under this. The Commissioners of Public Works are empowered to make preservation orders for a monument which, in their opinion, is a national monument, is in a danger of being or is actually being destroyed, injured or removed, or is falling into decay through neglect, on the recommendation of the Heritage Council. This preservation order empowers an officer of the OPW to inspect and examine historic monuments, and then, with the consent of the Minister for Arts, Culture and *Gaeltacht*, appoint guardian of the monument. Guardians are legally bound to maintain the monument.

The National Monuments and Historic Properties Service (a division of OPW) has as main functions the recording, surveying and protection of monuments and historical properties. Recording includes the non-statutory National Inventory of Architecture which concentrates on post-1700 buildings. The Service also carries out conservation and restoration works, funds both research and rescue examination and operates visitor facilities for many of the large and better known sites.

Listing is the mechanism by which most local authorities have chosen to implement objectives for the preservation of buildings, or groups of buildings, in their area. Buildings which are listed for preservation in a development plan are excluded from exempted development categories. Listing takes no account of the context of the building and the need to safeguard the environmental locality. There is no national listing procedure and little or no special fund to draw on. A conservation area may also be designated by the local authority when it considers that the overall quality of an area is sufficiently important to require special care in dealing with development proposals, but they do not have any force in law. There is no benefits for the owners of listed properties or properties within conservation areas, in financial terms, except for conservation grants and grants from the Heritage Council. This was placed on a statutory footing by the Heritage Act 1995, and replaced the non-statutory National Heritage Council. The functions of the council are to propose policies and priorities for the identification, protection, preservation and enhancement of the national heritage, promote interest, education and knowledge, co-operate with public authorities, educational bodies and other persons and organisations, make recommendations to the Minister and advise and inform the Minister. To perform its functions, the council has its own staff and is requested to appoint standing committees on wildlife, archaeology, architectural heritage and inland waterways. There are further a number of civic trusts

operating in the urban areas of Ireland with a range of objectives focusing on the residential renewal, cultural enhancement and maintenance of the historic fabric of individual cities.

The heightened awareness of the *environment* in Ireland has been considerably influenced by the EU policy. An impressive range of environmental legislation has been put on the statute books in recent times. The most comprehensive environmental policy document in Ireland is the Environment Action Programme (EAP) published in 1990. Successive governments have embraced the concept of a sustainable national development strategy. The transposing of the EU Directive of Environmental Impact Assessment into national legislation and into planning legislation has ensured that environmental impacts are statutory considered in the planning process.

The Irish government is also committed to the protection of specific areas of the natural environment through a number of environmental designations. *National parks* are owned by the State, by land either bought by, or bequeathed to the State. At present there are five national parks in Ireland, accounting for about 0,5 % of the country. The basic objectives are to conserve natural or other significant features and qualities, to encourage public appreciation of the heritage and to enable the park to contribute to science through environmental monitoring and research. Statutory *nature reserves* can be established on either State or private lands, provided they meet certain scientific, habitat and ecosystem criteria. Most of them are owned by the Wildlife Service. *Natural heritage areas* are areas of special ecological or geological importance, where wild flora and fauna still exist in a relatively natural state and where geological features are well represented. They have no statutory basis but are used to inform local authorities who list them in their development plans as sites to be protected. *Areas of outstanding landscape* have further been identified as guidelines for local authorities and other public agencies. Local authorities may also designate certain areas in their development plans, where planning controls are used to protect the visual elements of the landscape, such as a special view. A local authority can further make a *Special Amenity Area Order* for an area by reason of its outstanding natural beauty, its special recreation value or a need for nature conservation. The advantages of such an order are that it brings types of development, normally exempted, under the control of the planning system. Compensation is normally not payable in respect of a refusal of permission for development and the designation enables planning authorities to make conservation orders in respect of the preservation of rare species of flora or fauna.

The main legal instrument for *coastal works* is the Coastal Protection Act 1963. Local authorities and property owners are ultimately responsible for their own coastline, with this Act giving the local authorities powers to investigate any proposals for coastal protection works within the country.

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Italy

1. Administrative structure

The Government structure is articulated at four different levels: the central government, the *regioni* (20), the *provincie* (103) and the *communi* (more than 8 000).

At the *State* level, the Parliament is responsible for the main legislation, while the national Government has executive power. The State shall supply the general guidelines for planning activity. The Ministry of Public Works was earlier the most important national department with competences relating to land-use planning. It had the task of providing guidance and co-ordination and of identifying the basic orientation. But at the same time it is the administration responsible for construction of the most important infrastructure at the national level. Within the Ministry the *Direzione Generale del Coordinamento Territoriale* provides technical and proposal-making support to the government concerning land-use, while an agency as the *Comitato per l'Edilizia Residenziale* is responsible for the building of social housing. The Ministry plans operations, formulates general technical standards, conducts research in the sector and distributes funds but does not implement directly itself. Other Ministries that earlier influenced land-use were the Ministry of Heritage, Ministry of Environment and Ministry of Transport. In 1994, however, a reform of the administration within the sector was instituted, based on two key measures: creation of a *Ministero per il territorio e l'ambiente* with competence for the whole topic and creation of a *Ministero delle Infrastrutture*, bringing together the planning and design of works of national interest including planning of social housing.

The *regione* is the first and most important of the actors that undertake physical land-use planning and have competence also in other areas (state of roads, aqueducts, public works, agriculture and forest) which influence planning. The *regioni* were formed in 1970 and their responsibilities were defined between 1970 and 1977. They have full self-governing power for programming and planning their territory and full power to legislate. They organise the regional implementation of sectoral policies, they distribute funds to the *communi*, manage some programme directly and control the activities of the *communi*. The regions obtain their financial resources largely from annual transfers from national tax revenues. The regional organs are the *Consiglio Regionale* (Regional Council), the *Giunta* (Board) with its chairman.

The *provincie* is the local government tier intermediate between *regione* and *comune* and is of ancient origin. It has specific responsibilities in land-use planning and attends protection of land use resources, environment, road conditions, water resources, etc. It co-ordinates the proposals of the *communi* about economic, land-use and environmental planning and contributes to determination of regional programmes. In general, however, they have little competence on the subject of territorial planning. The provincial government comprises of the provincial council and the *giunta* with its chairman.

The *comune* has direct responsibility for land-use within its own borders and is the central point in the definition of programmes for development and transformation

of land. Nevertheless, its autonomous decisions must fit within the decisions of higher tiers. From the executive point of view, the *comune* identifies its own objectives. Granting of building permit lies within their exclusive competence. They are financed by the transfer of tax revenues from the State and some own resources. Their government comprises of the council, the *giunta* and the mayor.

In some areas *metropolitan areas* have been established, where *comuni* demonstrate a relationship of close interdependence in terms of economic activities, essential social services, cultural relationships and territorial characteristics. The local administration in those areas comprises two tiers: the metropolitan area has responsibility for tasks of supra-municipal character and those which must be performed in a co-ordinated form, while the included *comuni* exercise those functions not expressly attributed to the metropolitan area. The metropolitan government comprises of the metropolitan council, the *giunta* and the mayor.

2. Legal development

The legal basis of the Italian planning system is still a law of 1942. It provides the different levels and contents of plans. The law defines a very rigid system of programming and implementation of physical transformations of the territory. At the centre of the system is the *piano regolatore generale (PRG)*. It is based on the concept of zoning and allocates particular uses and characteristics to all areas of land that it covers.

During the second half of the 1970s some new and important planning initiatives were approved. The first established the principle of temporary planning and identification of parts of the *PRG* which were to be implemented within a specific period of time (three to five years). The second classifies and regulates the most important categories of urban renewal and also introduced a new planning instrument, the *piano di recupero* which is intended to address the management of the transformation of existing built up areas. These initiatives indicate the strong reaction against uncontrolled urban growth and change, a very great problem in Italy. During the 1980s the legal framework is being amended with the approval of new laws regarding the safeguarding of the environment. During the 1990s some important legislation has brought in new and more effective procedures to enable the restoration and renewal of existing towns and suburbs. These represent an example of the change from a planning system based on rigid zoning plans and regulations to a more flexible planning based on the collaboration between public and private sector.

During the last 40 years the 1942 law has thus been integrated with other measures. The legislative framework is not based on a general code in a unified text but on different laws, which must be related one to another each time. The main innovations are as follows: Law 1962 *Piano per l'edilizia economica* (dealing with social housing), Decree 1968 concerning compulsory observance of the minimum urban planning standards, Laws 1971 and 1977 concerning expropriation, Law 1978 *Piano di Recupero* (urban renewal), Law 1993 *Programmi di Recupero* and Law 1991 *Programmi integrati*. Further there are laws on environmental protection and improvement as the 1985 Law *Piano Territoriale Paesistici*.

3. Spatial planning structure

The *State* - and national government and parliament on its behalf - shall supply the general guidelines for planning activity and specify land-use guidelines through deliberative acts for which there are no corresponding planning instruments of direct relevance. The instruments, rather, take the form of resolutions on general objectives or objectives related to specific sectors. They represent what according to the Government must be followed in defining land-use. All national and local authorities must comply with these objectives in the preparation of their own planning instruments. The State also provides certain national sector plans such as plans relative to infrastructure, including the *Piano Trasporti*, the port plan and the plans and programmes regarding the location and re-conversion of electric power generating plants.

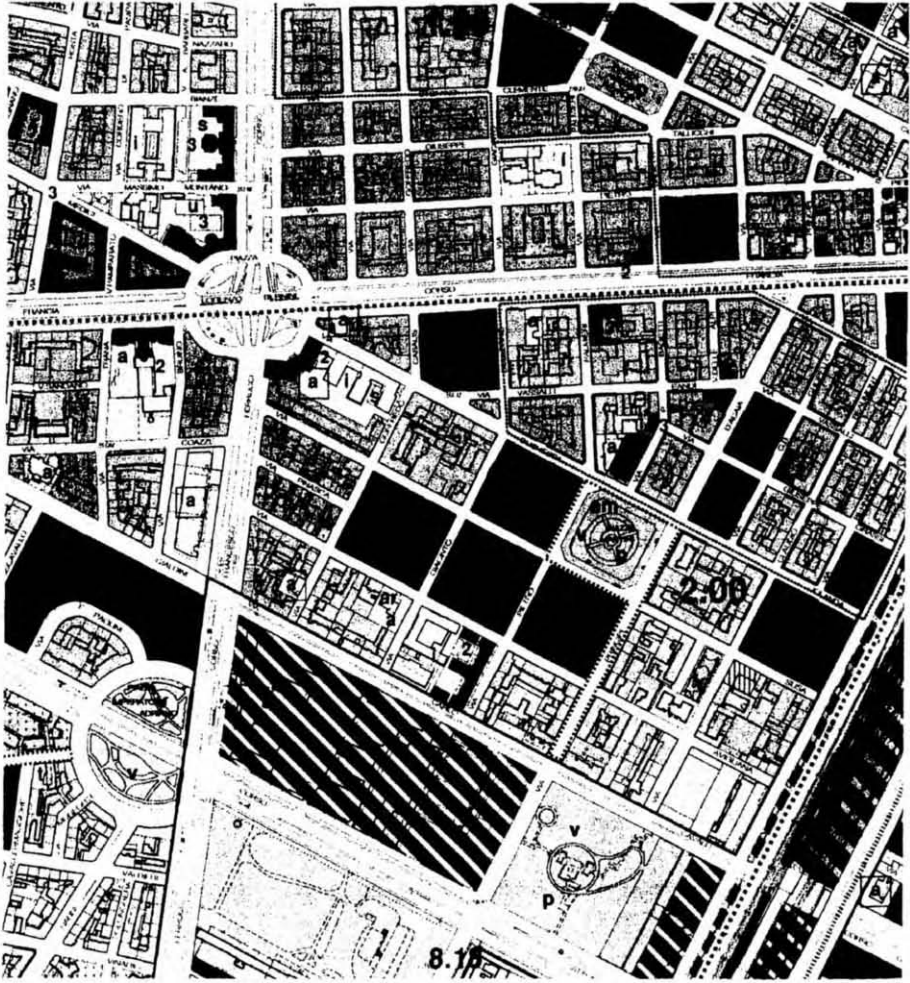
The *regioni* shall prepare the *piano territoriale di coordinamento (PTCR)* for their own territory on the basis on and in compliance with the State-level guidelines. The plan is at one and the same time a planning measure and guideline for the formation of provincial and municipal plans. The plan may cover all or part of the regional territory. No time limits are stated. It must establish guidelines relating to the zones to be reserved for special uses or subjected to special restrictions or limitations, identify sites selected for new urban development or for particular uses and for the principal communication systems and further control the preparation of local plans.

The regions may also prepare *Piano Territoriale Paesistico*, a landscape plan containing indications, prescriptions and restrictions relating to the environmental assets of the territory and to protecting and exploitation of the landscape. The plan may cover the whole or part of the region and has no fixed duration. It defines environmental and landscape implications of possible physical or land-use transformations and provides guidelines for construction of new landscapes.

The *province* have only recently been given a planning role and are to prepare a *piano territoriale di coordinamento (PTCP)*. The plan covers all the territory of the province and has no time limit. Specifically, a such should indicate - in areas not regulated by regional planning - the land-use zoning of the territory, general siting for infrastructure and lines of communication, lines of action for hydrogeological work and areas assigned as nature reserves or parks.

The *communi* (either alone or jointly in metropolitan cities or mountain communities) are obliged to prepare a master planning instrument for their own territory, generally the *piano regolatore generale (PRG)*. It must indicate the network of principal communication routes, the division of its whole territory into detailed zones which are defined in law (historic centre, completion, expansion, productive areas, agricultural areas, public spaces) and the restrictions to be complied with (figure 15). The plan is effective without any time limit and its provisions therefore do not expire until replaced by another plan. The expropriation-related restrictions imposed by the plan have a duration of five years. Within this time they may be converted to detailed plan restrictions and have a further legal duration of 10 years. Regional regulations usually require *communi* to submit the plan to periodic reviews. The plan gives no fixed development rights but is implemented at the urban planning level by means of detailed plans or private sector subdivisions.

Such an executive planning instrument is the *Piano Particolareggiato*. This is a local authority initiative of expropriation by the *commune* of properties necessary for the



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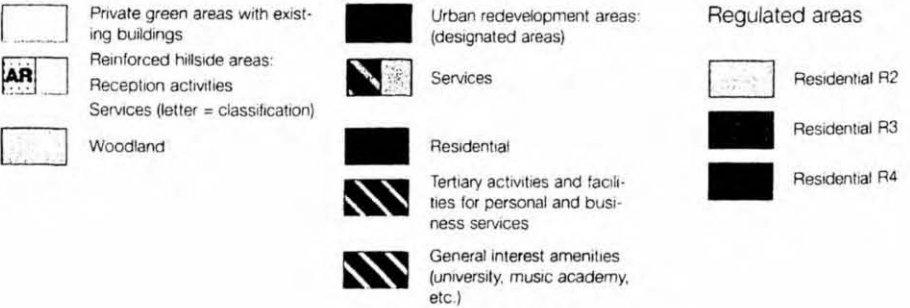


Figure 15. Piano Regolatore Generale (master plan), Turin

construction of the public works envisaged therein. It may set forth the specification of the infrastructure required as well as indications of the public and public-used areas, maximum developable area, building indexes and maximum allowable building heights. This type of plan is generally used for implementation of projects in existing built-up areas or proposed expansion, where many individual owners are involved and expansion requires complicated restructuring of property rights. For this purpose the plan may provide for use of the *Comparto* instrument. This is the formation of consortium of owners who own at least 75 % of the property and are therefore allowed to expropriate the remaining land. A similar content but based on an initiative by private owners has the *Piano di lottizzazione*. Its implementation does not involve expropriation since, under the agreement between *commune* and the owners, the latter offers the land assigned to public use and constructs the infrastructures and some of the services at their own expense.

Besides land-use planning, sectoral planning of different kinds (railways, public roads, water, economic development, etc.) exists according to systems more or less independent from the general physical planning system. In Italy, regional planning has not managed, except rarely and briefly, to create a synthesis between sectoral and territorial policies. The former are mainly comprised by national planning or spending legislation, while the latter rarely go beyond the co-ordination of planning carried out by different local authorities.

In planning matters, national, regional, provincial and communal co-operation cannot be avoided. Specific forms of association and co-operation comprise: *convenzioni* (agreements) for co-ordinated carrying out of specific functions and services, *consorzi* (consortia) for joint operation of one or more services, *accordi di programma* for definition of individual works or programmes that require integrated action by all the authorities responsible for the area. The approval of a development project takes place not only by the approval of a submitted project but also by the stipulation before a notary of a convention between the private operator and the *commune*. The convention defines all the conditions (the time scales, the phases, the controls, the obligations, the financial fees, the financial guarantees, etc.) through which the development project is carried out.

4. Process

The *regional Piano Territoriale di Coordinamento* is prepared directly by the regional administration, usually with the collaboration of external consultants, and is then submitted for adoption by the regional council. Following publication, local authorities and private individuals or associations may present observations and possibly objections which the regional council may accept or reject in the course of final approval. In general the formation and approval procedures for the *Piano Territoriale Paesistico* are the same. A similar procedure is followed for the production of the *provincial* plan, only that this has to be finally approved by the region, which checks its coherence with regional planning instruments and sectoral plans.

The *communal Piano Regolatore Generale* is prepared by the *Giunta comunale*, in collaboration with the communal technical departments but also and more particularly with outside professionals, sometimes based on a planning resolution that sets forth the general policy guidelines. It is adopted by the *Consiglio Comunale* and

then posted for the public for a period of at least 30 days and put to the citizens for the following 30 days, during which they can submit written opposition or observations, in which they may defend legitimate individual or collective interests. The proposed plan is then submitted to a review process by the *commune* which, by a resolution passed by the council, can accept or reject the observations. The plan is so submitted for approval, together with the observations and the counter-observations, to the next higher level of authority (the regions in most cases, but some of them have delegated the power to the provinces), which will approve, approve with limited modifications or reject.

The process of the more detailed executive plans is essentially the same as the above, only that the regions in some cases have delegated to the *commune* itself to approve the plan as long as it does not involve modifications of the *Piano Regolatore Generale*.

5. Legal status

The regional and provincial *Piano Territoriale di Coordinamento* is a guideline for the formation of plans at a lower level but does not involve obligations for the private sector. The *Piano Territoriale Paesistico* is also effective in relation to lower tier authorities and their planning instruments but to the private sector, too.

The communal *Plan Regolatore Generale* as well as the more detailed executive planning instruments give strictly binding regulations for both the public and citizens and may provide a basis for expropriation of needed land. If a development project is intended to modify the plans it is necessary to proceed with an amendment of the plan. This is a long and complex procedure which also must be approved by the region. The rigidity of Italian local plans derives from this rules. The problems of rigidity becomes more serious if the *Plan Regolatore Generale* is an old one and its forecasts are no longer up to date. There are however two exceptions to this general picture. One is that the central government, in accordance with the region, can decide the location and the implementation of a public work of national interest not only without taking into account the provisions of the communal plan but also without the agreement of the *commune*. The other one regards the possibility to accelerate the procedure of the amendment to the plan by a so-called *Accordo di Programma* with regard to public programmes or such of public interest. In this procedure both the project and the amendment to the plan are approved by public bodies (*commune, regioni, Ministro, etc.*). Generally speaking, however, the local plan is rigid and inflexible by the long period of time in which it is effective, combined with a level of land-use regulations of minute detail.

6. Implementation and control

The transformations over the territory do not always follow the plans. The unlawful building phenomenon is one of the most dramatic aspects of territorial change in Italy, particularly in central and southern large cities and territories. At first it was generated by immigration during the 1950s and 1960s, and later in the 1970s and the 1980s unlawful building developed into a parallel market to lawful building. Other factors are the fragmented ownership of agricultural land, and the practice of selling land in lots. Most buyers erected buildings without permission. The main advantage was the short

time necessary to build and to move in compared with the long waiting list offered by those houses erected by the public sector. In this period 30-50 % of new settlement were built unlawfully, and much of it without any primary or secondary infrastructure. The size of these developments was left to grow out of control to the point where it was impossible for political and social forces to stop it.

From this situation of 'powerlessness' came the legislation of the so-called *Condono*. In the face of the impossibility of demolishing the unlawful buildings, the decision was to legalise them and the abuse by the payment of a sum of money. One part of this payment goes to the State as financial income and one part goes to the municipality as a contribution for urbanisation works. But very little has been achieved.

There exist, however, instruments for active public implementation. The instrument of *Piano Particolareggiato* and *Piano di Lottizzazione* have already been mentioned. Another one is the *Piano per l'Edilizia Economica e Popolare*. This is prepared to implement policies for social housing through the finding and making available to the builders (firms, cooperatives, local or national housing authorities, etc.) of areas, where low-cost building is possible by means of either low-cost loans or capital grants. The procedures for the formulation and approval are similar to those that apply to other municipal plans. The implementation takes place through previous expropriation of all the land involved. The part to be built on is then sold or leased to the operators or users whether in the public or private sectors. Another instrument is the *Piano di Recupero* (see below).

The provisions of the municipal plans can be directly implemented through use of the *concessione edilizia* (building permit) according to a Law 1977. Until then, the building permission was free: the *commune*, after verifying that the submitted project was in accordance with the regulations of the plan, was obliged to grant permission to build. With the new law, the permission is granted only on the discretion of the *commune*. To meet the requirements to obtain a building permit, the work to be carried out must be in conformity with the *piano regolatore generale*. If any such does not exist, it is only allowed to erect single buildings, following very rigid regulations. For development projects a detailed urban planning scheme, *piano particolareggiato* must be in force. If the planning scheme provides for the preparation of a plan by private parties (*piano di lottazione*) the owners must first sign up an agreement about free cession of the area destined for public urbanisation works and bearing of related implement costs, the time-limit, not exceeding ten years, within which the development work must be completed and adequate financial guarantees for the feasibility of the operations. In addition to this, the building work must conform with other conditions derived from supra-municipal plans and from any special regulations or provisions laid down in laws.

A building permit is necessary for any private work. A public work of local interest executed by public administrations or agencies also requires building permits, except when the work has been approved by a resolution of the municipal council. Only interior work calls for no previous authorisation and can be started following simple notification. Works under a building permit must start within one year and the completion time may not be more than three years.

The request for a building permit can in general be made on an appropriate application form providing all the pertinent technical data as well as the expert opinions and the official authorisations which the applicant must have requested beforehand. An

extract from the planning instrument, the site plan, plans of the different levels, longitudinal and cross sections as well as technical and construction details should be included. Municipal building regulations indicate how detailed the application has to be. The application is forwarded to the mayor. The project is always examined by the technical office which submits it to the Housing Board, the *Commissione Edilizia*, appointed by the municipal council for evaluation. If the result of this evaluation is positive, the project is forwarded to the office responsible for health care and the mayor then notifies the official results to the interested party. The granting of a building permit involves the payment of a contribution for covering of urbanisation and building costs.

The request for a building permit may involve areas that are not only subject to city planning limitations but to other constraints that would limit construction as well. In addition to the construction permit itself, a builder must also request the necessary expert opinions, authorisations and permissions from the authorities whose task is to oversee the aforementioned constraints, and all of these administrative measures would then be joined together in the procedure for the granting of the building permit. The constraints may be restrictions of historic and artistic interest, environmental or hydrogeological restrictions, military rights, etc. The issue by the *commune* of the building permit constitutes the final enabling act, following which the applicant may start the works, notifying the mayor there at the same time. The conditions the *commune* sees fit to impose assume the effect of prescriptions. These regulations do not include contractual forms. Traditionally, administrative action has always been characterised by their unilateral nature. As a consequence, the private individual is not able to exert any formal influence with regard to the contents of an administrative measure.

Appeal may be raised against measures relating to building permits and authorisations to the *Tribunale Amministrativo Regionale*. The subject-matter of the appeal always concerns a measure taken by the mayor which has directly affected the interest of the appellant. After a hearing of the parties concerned the judges decide by absolute majority. Both the mayor and the interested party can appeal against the decision to the *Consiglio di Stato*. Also a third party holder of a right may oppose construction of the work authorised.

At the end of the construction the *commune* has to carry out a final test. Only after these checks have been carried out the *commune* grants the final certificates with which the building can be used.

7. Renewal, heritage, environment

Concerning *urban renewal* the operational possibilities comprise *Piano di recupero*, *Programmi integrati d'intervento* and *Programmi di recupero urbano*. The first one is prepared to recover and reuse decayed areas of town centres and of existing built-up areas in general. The *comuni* may identify renewal areas on the basis of physical decay. The initiative may be carried out either by the public or the private sector. The plans may be assisted by public sector financial contributions. Approval of these plans are normally limited to the *commune* itself, provided that the instruments conform to the provisions of the *piano regolatore generale*. A more integrated approach can be taken by erecting *Programmi integrati d'intervento* with regional support. The

regional authorities may dedicate as much as 15 % of their public residential building resources to these programmes. Private individuals are also authorised to present their own integrated programme proposal before the *communi*. The *Programmi intergrati* are approved by the municipal council and may even contain provisions which conflict with urban planning regulations. *Programmi di recupero urbano* identifies 'work to be carried out on the public residential building stock' and usually consists of construction and improvement work to city buildings. The public finance mechanisms are the same as in the previous case.

The structure for the *conservation and protection of historic, architectural and archaeological property* in Italy is very centralised and is mainly under the responsibility of the Ministry of Cultural Heritage, assisted by councillors in the regional, provincial and municipal structures. The Ministry has also central institutes for cataloguing, documentation and information for restoration. The peripheral actors are the *Soprintendenze*, each with its own special field. They also deal with any matters within their competence in the framework of municipal town-planning schemes. A *vincolo* - a specific restriction on the rights of ownership - imposed by a ministerial decree, establishes that a piece of property is of artistic or historic importance and is therefore subject to special protection. The owner of a building on which a restriction has been imposed must obtain authorisation for any work (alteration, restoration, etc.) from *Soprintendenza*, which must give a ruling. If an owner does not fulfil the obligations related to the conservation of the protected property, the State authorities may expropriate the property.

On a local level, the municipal administration is responsible for the protection of heritage. The *communi* are required to regulate the areas that are subject to protection and that in general correspond to the zones labelled A in the *Piano Regolatore Generale*. The only interventions that are authorised in the A zone are those involving preservation, restoration and recovery. For interventions on buildings located in A zones, the *communi* may provide financial incentives, but the considerable limits imposed by municipal budgets renders such interventions episodic at best. In addition, a reduction in the value added tax rate is applied to all works that qualify as preservation, restoration or restructuring.

Protection and management of the *environment* is given an increasing role in spatial planning also in Italy. It is the responsibility of various levels of government, both central and peripheral, including also voluntary associations. The role of co-ordinator, as far as environmental control is concerned, is played by the environmental protection board *ANPA (Agenzia Nazionale per la Protezione dell'Ambiente)*. The agency is the first of its kind in Italy and plays an important role, both on the central and local level. In addition to this central agency, regional governments may set up local agencies for territorial protection, vigilance and control.

Concerning *countryside conservation* the Law 1991, no 391 provides Italy with an organised system of natural, protected land and sea reserves, and lays the foundation for a new type of environmental conservation policy. The law provides for new territorial planning methods, based on the identification of areas with different levels of protection. The protected natural areas are divided into three main categories: national parks, regional nature parks, national or regional nature reserves. The national parks are complex natural areas, covering a vast territory of high national and international value and interest. Their environments are either unique or typical of a certain geographical

area, noted for the presence of species of fauna and vegetable associations. Regional and provincial nature parks are large areas, often coinciding with a natural district not yet completely disturbed and transformed by mankind. Nature reserves, whether State or regional, are areas of limited size, sometimes identifiable with one single biotype, which are of ecological and scenic value, of scientific interest or typifying special aspects of a certain territory.

The protected marine areas are established by the Ministry of the Environment and are classified as biologically protected areas and nature maritime reserves. The former are stretches of sea, protected and recognised as breeding areas. The second type are typical of marine environments found at the bottoms of coastal waters which are of particular interest because of their natural characteristics. They are grouped into marine parks and marine reserves, according to size and restrictions,

In the history of all the Italian parks, funding has always been a problem and remains one of the main obstacles to proper management of the parks. Every three years the Ministry of the Environment presents a plan for environmental financing. In addition to the funds under the plan, funding by local agencies and EU funds are available for projects with a strong environmental component. Generally, however, coastal protection in Italy is rather weak. The functionally integrated problems of coastline are addressed in a fragmented legislative and administrative framework. It is, however, important to point out the positive role which regional planning even with limitations can play. Especially in the case of touristic planning some regions have tried to make the intensive use of their coastlines compatible with interventions aimed at environmental resource recovery as well as the control and prohibition of new building.

Luxembourg

1. Administrative structure

The central government administration comprises the Grand Duke, the Government and the *Conseil d'État* (Council of State). The Government exercises its administrative functions through the departments and the general services attached. Each Minister may be responsible for one or several ministries or departments and may be supported by a Secretary of State. The *Ministère de l'Aménagement du Territoire* (Ministry of Planning) is in charge of national planning policy under the authority of the *Conseil de Gouvernement* (Government Council), consisting of prime minister, ministers and permanent secretaries. The Minister's principle means of co-operation, outside the Government Council, are the Interministerial Planning Committee (*CIAT*), composed of officials from government departments, and Higher Planning Council (*CSAT*), composed of representatives of municipalities, the private sector etc. The Minister of Home Affairs acts as a supervising authority. The Minister is responsible for the approval of the *projets d'aménagement* (municipal development plans) drawn up by the municipal councils. Attached to the Minister is a *Commission d'Aménagement* (Planning Commission), made up of six members: a State delegate, an engineer, an architect, a land surveyor, a servant of the Department of Environmental Protection and a person with particular expertise. The Commission has to provide legal advice to municipalities and private parties, to raise specific questions relating to planning with the government and to make comments on all the issues and draft projects which the government has seen fit to submit to it. The *Service d'Aménagement Municipal et d'Urbanism* (Service for Municipal Planning Matters) is principally composed of technical experts. It acts as an advisory body on behalf of the Minister, the Planning Commission, municipalities and private parties.

Luxembourg is divided into 12 cantons and three districts. Their interests are limited to administrative aspects. It is further subdivided into 118 municipalities, which represent the only decentralised form of local authority and enjoys a high degree of autonomy. With regard to its funding, it is to be met by the municipality itself. The Municipal Council is an elected political assembly. As executive power functions the *bourgmestre* (mayor) who for certain decisions is supported by the *college des bourgmestre et échevins* (Council of Mayor and Aldermen).

2. Legal development

Greater awareness about spatial planning and development has progressively developed in Luxembourg. For this purpose, specific legislation has been formulated from the 1930s and onwards. The Act 1937 on the *aménagement des villes et autres agglomérations importantes* (the development of cities and other significant agglomerations) is an instrument which retains an active role in the planning and development. It has been followed by the Act 1974 on the *aménagement général du territoire* (guidance act relating to the State and municipalities), subsequently

complemented by the Act 1982 on environment and natural resources protection and the Act 1993 on nature parks. The last three Acts confer on the State own intervention and control powers over municipal decisions, when required by the national interest. In later years there has been a growing trend towards decentralisation and even regionalization, calling for a more active involvement of the regions. The Act 1974 was replaced 1999 by a new legislation. The concept of sustainable development has been introduced as the basic orientation. The law emphasises particularly a rational use of the soil and new tasks such as the contribution to the implementation of trans-border and interregional policies and the protection against natural risks.

3. Spatial planning structure

At *national level* the co-ordination function of the Minister responsible for physical planning has been enhanced. The Minister will participate in programming large-scale public projects and evaluate all project proposals having a direct impact on the goals of spatial development. The Minister is also responsible for preparing the *programme directeur* (National Planning Programme), which has to co-ordinate the aims of the sectoral policies and defines the principal development guidelines of the State. The Ministry's general function is the execution of the planning laws. In relation to the government, its role is to submit proposals. In particular, it must ensure the formulation and modification of planning documents provided by the law as *programme directeur* and municipal plans and to watch of the functioning of the planning service. The Minister for spatial planning or the Minister responsible for a specific sectoral policy can also take the initiative to elaborate a *plan directeur sectoriel* (sectoral plan) which details the *programme directeur* with regard to specific sectors or areas. It is an instrument of horizontal co-ordination at the national level. In a special spatial context, the government may further establish *plans d'occupation sol* (land occupation plans). In contrast to the sectoral or regional plan the soil occupation plan has a direct impact on the use of different parcels of land.

Regional planning (plan directeur régional) is an important element of the new Act 1999. The law enables the State and the municipalities of the different regions to work out a regional development perspective in close partnership. If they want to, the municipalities may constitute regional syndicates as a structure for inter-municipal co-operation and for the implementation of the measures they retained.

According to the Act 1974 all *municipalities* are legally bound to draw up *projets d'aménagement communal* (municipal development plans), established already in accordance with the Act 1937. With regard to their objectives, they have become global in nature and now relate to the whole territory of the municipality. Their lifespan is difficult to evaluate since revisions are possible at any point in time. The aims of the plans are to describe the medium- and long-term objectives of the municipality. This is a kind of structure plan, at least for that part of the territory which is not defined at the parcelling level; however, municipalities are not obliged to go deeper in detail. The plans can be made up of a *plan directeur* (structure plan equivalent), a *plan d'aménagement général* (general development plan) and regulations governing building rights, public roads and development sites. They are initiated and produced by the municipality.

At the local level there also exist *projets d'aménagement particulier* (private

plans) which can be presented by associations, companies and individuals. The plans are bound by certain constraints and must be published to allow third parties to present their objections. Normally, they cover a limited area and are intended to be implemented within a short time. Often contract is established between the municipality and the landowners.

Besides the mentioned plans there exists many sector plans with spatial influences such as roads and other communication networks, water ways, telecommunication etc.

4. Process

The *programme directeur* is drawn up by the Ministry of Planning, with the aid of consultancy. The type of such is not defined but may include organisations such as the Higher Planning Council, the Council for Economic and Social Affairs, different municipalities, private consultants, etc. With regard to policy formulation, it exclusively takes place at the governmental level. The law does not retain any participation of the Chamber of Deputies. The program is approved by the *gouvernement en conseil* (cabinet meeting). The elaboration of a *plan directeur sectoriel* follows in main the same process. only that the initiative and establishment may come also from other Ministers, maybe in co-operation with the Minister of Planning.

A *plan directeur regional* is elaborated by a mixed working group including representatives of the State and the municipalities concerned. In a similar way a *plan d'occupation sol* is elaborated in close contact between the State and the municipality in question, with possibilities for third parties to be involved in the planning process and to appeal against the draft. The final decision is taken by the Cabinet on a proposal submitted by the Minister of Planning.

The *projects d'aménagement communal* are formulated by the Council of Mayor and Aldermen. They are submitted to the Planning Commission, attached to the Ministry of Home Affairs and subsequently to the municipal council, with attached comments by the Planning Commission. After their provisional approval, the plans are lodged for 30 days in the town hall, inviting the public to examine the plan proposals. Within the period, objections may be presented in writing to the Council of Mayor and Aldermen. The Council will hear any individuals opposed to the plan in order to come to an agreement. The results are then submitted to the municipal council which will make a final decision, under the approval of the Minister of Home Affairs. The decision will then be advertised. Any ensuing claims and objections need to be addressed to the government within 15 days. The Minister in such cases will make a judgement, in consultation with the municipal council and the planning commission.

With respect to all binding planning documents, any appeal has to be brought to the *Conseil d'État* (Council of State), which acts, among other things, as an administrative court of the first and second degree. Any corporate or physical person, who is directly affected by a given plan, may lodge an appeal.

5. Legal status

A *programme directeur* is binding at the government level and binds any minister as well as government departments and any State-run organisations. However, it cannot

be legally enforced vis-à-vis third parties. A *plan directeur sectoriel* is a legally binding instrument and has a direct impact on the plans at local level. A *plan directeur regional* is also a legally binding instrument concerning its spatial impact and overrides the regulations on the municipal level. A *plan d'occupation sol* has a direct impact on the use of different parcels and is legally binding.

At the municipal level a *projet d'aménagement communal* does not have to adhere closely to the *programme directeur* but is statutorily bound by the other mentioned higher level plans. It is itself binding at the local level. If a private plan (*projet d'aménagement particulier*) is presented, its objectives must conform to the land use provided by the municipal plan.

Both at a national and municipal level, any departure from a plan is viewed as a modification of the plan which must be carried out following the procedures used for the initial formulation.

6. Implementation and control

With regard to the possibility of carrying out compulsory purchases for planning and implementation purposes it is legally permissible and is a prerogative of the State and the municipalities. As for construction and other work, it is normally carried out by the private sector. The public has however possibilities to support housing programs by special funds and by public developers such as the *Fonds pour le Logement à Cout Modéré*. The purpose of this is to carry out all the operations involved in low-cost house building intended for sale or rent depending on local or regional needs and on urban rehabilitation. Aside from land supply and building permit concessions, the municipalities are also taking part in social housing developments through a preferential land price owing to State subsidies, and by allocating a grant to applicants who are benefiting from a State subsidy.

No construction related to economic activities (agriculture, mining, industry, commerce, tourism etc.), housing or for any other purpose can be started without a *permis de construire* (building permit). It represents the main document to be obtained and also the last, because no permit can be granted, if some of the preliminary authorisations required are not obtained. Its general purpose is to confer building rights in accordance with the plans, provided that the *police des batisses* (inspector of building works), attached to the mayor's office, is responsible for examining any building permit application and to supervise all building work carried out and check, in particular, whether they conform to the provisions of the original development proposal and to the building regulations in force. The lifetime of the permit is usually two years, with possibilities to extensions. Permit is needed for both new, extended or altered constructions, for building demolition and for roads and private footpaths.

An application must contain a number of documents, such as a recent land registry survey, a site plan and building plans showing all levels and longitudinal and cross-sections with indications of the link to sewer network and water pipes. The application may further be supplemented by information and calculations on the nature of the soil and its loading capacity. The application is made to the mayor and/or the Council of Mayor and Aldermen. There is no obligation to notify another authority of the application. The applicant has to pay a tax reflecting the time and effort required to process his application. The following procedure is simple and internal to the

municipality, in which all authorities are required to check whether any other necessary authorisations have been granted. This is especially relevant concerning insalubrious and dangerous buildings which may cause inconvenience to the surrounding environment. Consultation is free. No compensation rights exist in the case where an application has been refused, even if it conforms to the plan in force. Appeals are admitted to the *Conseil d'État*, if the plaintiff is able to demonstrate that he or she has a personal interest to defend or has incurred damage.

There are other permits which may be needed. Any housing project requires a *projet d'aménagement particulier* (specific development plan) before receiving building permit. It needs to be submitted for approval to the Planning Commission. The implementation of transport and communication networks and of energy/liquid or gas networks as well as opening of mines, sand pits, etc., must be authorised from the Department of Water and Forestry within the Ministry of Environment. The same Ministry also has to authorise formulation or modification of a plan which affects the *zone verte* (non-developable land). Special permits may also be needed for commercial, crafts, trades and other activities.

7. Heritage, environment

Concerning *heritage protection*, the definition of conservation and restoration within the planning context was provided in a *déclaration d'intention générale*, issued by the government in 1988. This declaration has a political character, without legal force. The statement includes a classification of assets in accordance with the law or according to their quality as *sites et monuments classés* (classified sites and monuments) or *sites et monuments inscrits à l'inventaire supplémentaire* (sites and monuments listed on the supplementary inventory). Further, special protected areas may be established. These are groups of buildings, such as a village, an urban area or sector, a castle and its surroundings, etc., which by themselves do not justify being classified or being part of the supplementary inventory, but which are characteristic and deserve to be protected in such a way that any change can only be made as long as it does not alter the typical outlook as a whole.

The responsible agency here is the *Service des Sites et Monuments Nationaux* (Service for National Sites and Monuments) which is part of the Ministry of Cultural Affairs. On this basis the department is, amongst others, in charge of the enhancement of the architectural heritage, the protection of classified sites and monuments and the coordination of public efforts in this domain. The administrative act of classification takes place by a decree of the Cabinet of Ministers at the proposal of the Minister of Cultural Affairs. During the course of the procedure, the municipality in question will be consulted. The decree determines the conditions of classification and will eventually grant compensation. The owner(s) will then have six months in which to respond and will also have rights of appeal to the *Conseil d'État*. In the absence of any agreement by the owner of the amount of compensation to be paid, the dispute will be judged in the first instance by the relevant district tribunal. It is worth emphasising that the State is able to grant subsidies for the restoration of buildings.

Concerning *protection of natural spaces* the responsible ministry is the Ministry of the Environment. The protection of the natural environment on a territorial basis may be equated, roughly speaking, to the protection of rural areas. Individual listings are

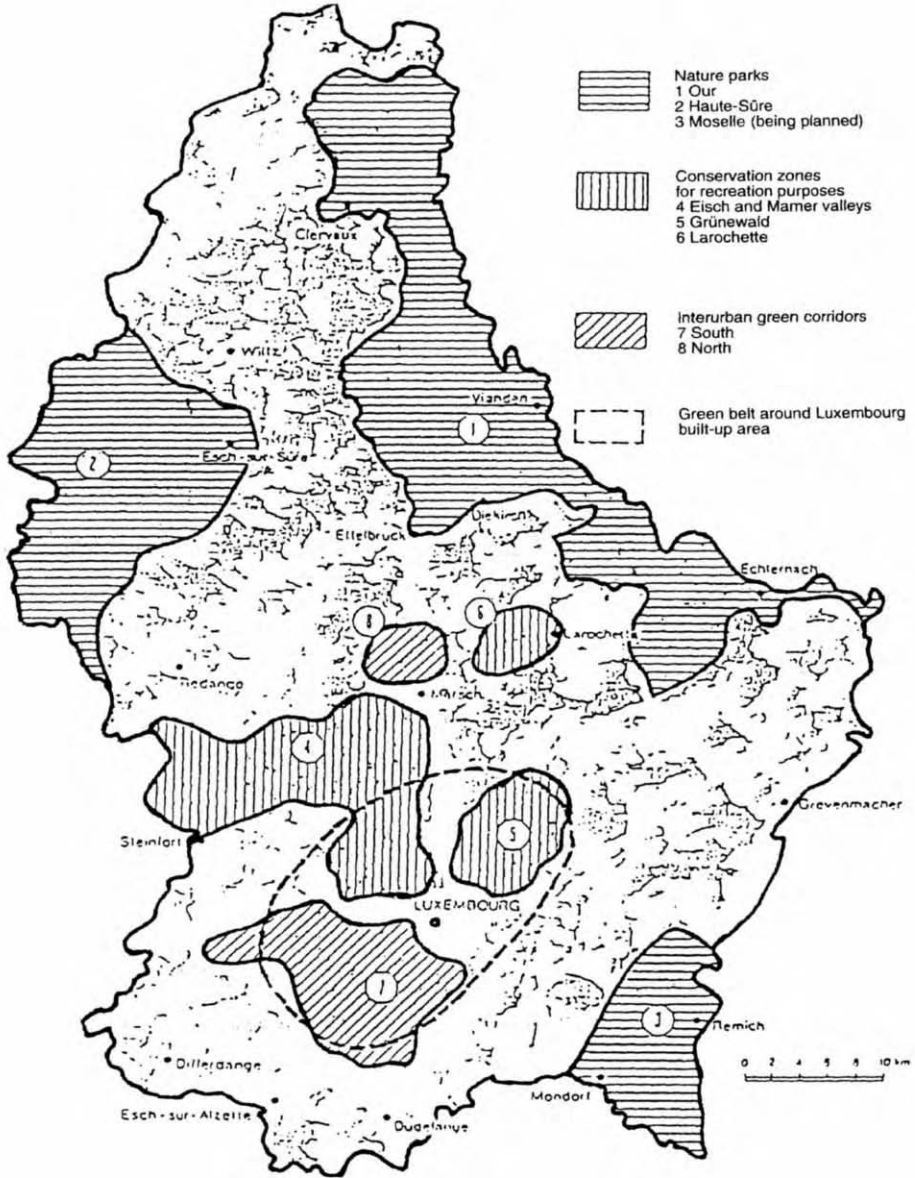


Figure 16. Nature parks and conservation zones in Luxembourg

established having regard to specific ecological and environmental factors in each case and include national parks, green interurban spaces, protected landscapes, nature reserves, natural sites and monuments, etc (figure 16). All elements have a statutory protection resulting from the law applicable to them. The principal organisation for ensuring their protection is the *Service de la Conservation de la Nature* (Nature

Conservation Service), attached to the Ministry of the Environment. However, the Ministry of Planning may also act in this field by drawing up specific plans or by using the Act of 1993 relating to nature parks. The municipality may act in a similar way through its development programme. Already the objectives of the 1974 Planning Act included nature preservation and natural resources conservation. The municipal 'green plans' are deemed to have this purpose. On this basis, the municipalities can therefore take initiative and create nature reserves, green zones for leisure, green corridors between localities, special protection zones, etc. Municipalities can also co-operate on a common project. They may further decide to create a nature park and manage the municipal forests.

Environmental conservation in general is also the responsibility of the Ministry of Environment. This includes ecological protection in sectoral policies, controlling the conflict between economy and ecology, consulting with ecological associations, co-operating with other departments and services, defining a policy for forestry, establishing action programmes, plans for water management and formulating legislation. Three important legislations in this connection are the law 1993 on water management and protection, the law 1976 concerning the fight against air pollution and the law 1994 on waste prevention and management.

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The Netherlands

1. Administrative structure

The Netherlands is described as a 'decentralised unitary State'. The fact that territorial government bodies have a guaranteed constitutional autonomy makes the Netherlands a decentralised State. It is also a unitary State, in that regulations exist to prevent a lower-tier body taking actions which are contradictory to the policies of a higher-tier authority. A higher tier may not usually dictate what a lower tier must do, but a higher tier often has the power to refuse to approve the intended actions or to nullify completed actions.

The bodies important for the spatial planning system are the national government, the provinces and the municipalities. At the three level of government, there is a body of directly elected representatives.

- at the national level the *Tweede Kamer* (second chamber of parliament);
- at the provincial level the *Provinciale Staten* (provincial council);
- at the municipal level the *Gemeenteraad* (municipal council).

At the national level the *Eerste Kamer* (first chamber of parliament) which is elected by the provincial councils, i.e. indirect, also has to approve the planning decisions made at that level.

At all the three levels there is also a non-elected government body with executive responsibilities. These are:

- at the national level the *Cabinet*, formed of ministers and secretaries of State, for some purposes the *Kroon* (Crown), formed of the ministers and monarch;
- at the provincial level the *Commissaris der Koningin* (Queen's commissioner), appointed by the Crown;
- at the municipal level the *Burgemeester* (mayor), also appointed by the Crown (the executive responsibilities of the mayor are however few)

The provinces and municipalities have in addition executive bodies composed of the non-elected 'governor' and a few of the elected councillors. The general principle of the public administration is that the policy is determined by elected representatives on the advice of civil servants and other public officers. The execution of that policy is the responsibility of a governmental body, aided by public servants and other public officers. The political tasks of determining policy are divided between a government body and the parliament/council.

At the national level the Ministry of Housing, Spatial Planning and the Environment (VROM) has the main responsibility for spatial planning matters. It consists of four directorates-general, among them the *Rijksplanologische Dienst* (national spatial planning agency), working under the direction of the Minister and with the function to assist the Minister in determining government policy for spatial

planning and keep contact with the relevant bodies at national, provincial and municipal level. It cooperates with the *Rijksplanologische Commissie* (national spatial planning commission), consisting of high-level representatives of the various ministries and with the object to coordinate the actions and policies of the different national government departments in so far as these affect spatial development. The commission is responsible for preparing the reports on spatial planning for the whole country.

At the regional level there is one *Provinciale Planologische Commissie* (spatial planning committee) for every province. Its objective is to advise the provincial government about how it should exercise the powers given to it by the spatial planning act. All draft spatial plans for areas within the province, and policy documents with spatial planning implications have to be discussed by this committee, which then issues an advice note to the provincial executive.

At the municipal level it is a matter for the municipality itself which organisation it uses for preparing and executing the spatial planning policy. The municipalities are active in most spheres of public policy. However, most of their expenditures come from the national government, paying the municipality to execute national policies for housing, welfare, education, etc.

2. Legal development

When the cities started to grow rapidly in the second half of the 19th century, there was no spatial planning legislation. However, the city governments would not accept the poor quality of urban environment that unregulated development was producing. So they started, very actively, to regulate urban growth using other powers, in particular building regulations, powers to prevent public nuisance, and the provision of infrastructure, all in combination with a city government land-agency function (i.e. providing building lands, servicing it, and supplying it to private builders). The first legislation which specifically enabled spatial planning to be pursued was the *Woningwet* (housing act), passed in 1901. This did not give the municipalities as many powers to direct development as they wanted. It was the provinces that were given, as early as in the 1930s, the powers for making regional plans. Even with the passing of the first legislation explicitly for spatial planning in 1965, the *Wet op de ruimtelijke ordening* (spatial planning act), municipalities found it useful to continue their active land-agency role. Nowadays, much building still takes place on land supplied by municipalities, although this is changing.

The key legislative basis is the spatial planning act with its accompanying *Besluit op de ruimtelijke ordening* (decree) and in combination with *Woningwet* supplemented by the *Wet op de stads- en dorpsvernieuwing* (act on urban and village renewing). Much legislation has the character of framework legislation and delegates to national government, to the provinces and to the municipalities the power to specify the content of the law. In this way, the formal legislation does not have to be revised or changed frequently. Thus, the housing act now in force is still basically a version of that introduced in 1901. Similarly the present spatial planning act is still basically the same as that introduced in 1965 (although it was substantially amended in 1985 and again in 1994). However, the Cabinet published in May 2003 the text of a law that will radically change the spatial planning act. It is not possible to say whether the proposed act will be adopted or not.

3. Spatial planning structure

At the *national level* is stated that the Council of Ministers can determine aspects of national policy for spatial planning. This policy can concern planning issues important for the national policy (national structure plan for a broad aspect of spatial policy), locational aspects of another sector such as transport or a particular project of national importance. Another way in which the Council of Ministers can determine national policy is through a national policy document on spatial planning. All these sorts of policy statement are called a *planologische kernbeslissing* (a spatial planning key decision). They are used only for major projects and policy issues. Moreover, the Minister for VROM may issue directives as to what a province should include in its regional plan and as to what a municipality should include in its local land use plan, even orders that such plans be made or revised.

At the *regional level* the spatial planning act enables - but do not oblige - the provincial council to make or revise a *streekplan* (regional plan). The national government, however, will expect and can oblige the province to do so. A plan has to be revised every 10 years. Parts of a regional plan can be elaborated later, and an 'elaborated plan' has the same legal status as the regional plan itself. In this way, the plan as adopted by the provincial council is very general, and parts of it can be worked out in more detail as and when it is necessary, by the provincial executive.

The regional plan must present the policy for spatial development, if necessary with phasing. The province can use this to direct its own actions and to try to influence the actions of others. It may also be used to integrate and co-ordinate spatial policy both vertically and horizontally. The plan must consist of a map (the preferred scale is 1:50 000) and a written statement explaining the plan and describing the research and consultations behind it.

At the *local level* the spatial planning act gives the municipal council the right, but not the obligation, to adopt a *Structuurplan* (structure plan). Such a plan may cover all or part of the municipal territory. The act allows also adjacent municipalities to produce one structure plan for their joint territory. The plan should - if not otherwise decided - be revised every 10 years. The plan must contain one or more maps and a written statement. The preferred scale of the map(s) is 1:25 000, and the written statement must contain the thinking behind the plan and the results of research and consultations carried out. The plan sets out in general terms the desired future development. It can be used by the municipality to guide its own actions, in particular to integrate and coordinate its policies in different fields and to work out in general terms the implications of national and provincial spatial policy before going on to make a *bestemmingsplan* (local land use plan).

According to the spatial planning act a municipality must make a *bestemmingsplan* for the territory outside the built-up areas (figure 17). For such areas some municipalities make one huge plan, others cover the territory with several plans. For the territory inside a built-up area the municipality may decide if such a plan would be made. It may be made for an urban renewal neighbourhood, a new housing estate or just for one or two properties or a road junction. The plan specifies the broad land use which will be permitted on the various sites. It can be single, such as residential, agricultural, etc. or multiple as residential and employment within the same zone, or shops under residential. If it is considered necessary, it can be further specified how the



Part of the key :

USE

	Single- and multiple-family residences		Mixed construction
	Multiple-family residences (Art. 11 of the regional planning act)		Mixed construction
	Specific residential buildings		Passive recreational uses
	Specific uses		Protected groundwater mining area I, for passive recreational uses
	Business buildings		Mixed construction and/or office space
	Businesses in the catering sector		Workshops

Figure 17. Bestemmingsplan in the Netherlands

land and buildings might be used. Building density, height etc., or flexibility rules which the municipality may give itself for departing from its plan. It may also be specified in the plan that it is to be elaborated further or that it may be modified within certain limits. Such activities of elaboration and modification are normally the responsibility of the municipal executive.

The plan must contain a description and content of the designations made for the plan area (e.g. housing), one or more maps of that area showing the designations (at a scale of at least 1:10 000), if necessary, use-rules about the form of the buildings and finally the rules which bind the municipality in operating the plan. It must also be accompanied by a statement giving the results of the studies and consultations undertaken. It should specify areas to be further elaborated and further give sufficient

information about the aims of the plan so that the future development can be foreseen by interested parties. Even though greater possibilities were introduced in 1985 for making global plans, municipalities still continue the practice of making most of their plans detailed, because of wish to give citizens greater legal certainty, intensive public participation leading to matters being regulated in detail, etc.

A specific form of *bestemmingsplan* is a *stadsvernieuwingsplan* (urban renewal plan). It is intended for built-up areas which no longer meet satisfactory conditions and where the buildings need to be modified or replaced. It places more emphasis on implementation (includes an implementation programme with time-table, finance and public participation) and includes a system for controlling demolition. Designations are further possible for renovation and improvement of buildings. However, as such a plan must be done according to the same procedure as a *bestemmingsplan* it takes a long time. If the municipality wants to act quickly in an area, it will make a *leefmilieuverordening* (living condition ordinance). This may be used only for areas principally intended for housing or commercial purposes and has validity for five years, with the possibility of extensions. The ordinance may specify use-rules to prevent or reverse deterioration in buildings or living conditions. It may not specify what may be done, only what not may be done. A building permit must be withheld if the works would be at variance with the ordinance. An obligatory part is a system for controlling demolition.

Although it is not obligatory to make a *bestemmingplan* for land within the built-up area, in practice most municipalities have, since the introduction of this instrument in 1965, taken the trouble to cover also most of their built-up area with these plans. A plan is to be revised at least once every 10 years. The procedure for making a revised plan is the same as for a new plan. However, even if a plan is not revised, it does not lose its legal validity. The municipal council can decide to withdraw parts or the whole of the plan at any time.

4. Process

The procedure for making and adopting a *planning key decision* is as follows:

- the decision is produced on behalf of one or more ministers, one of whom must be the Minister for VROM, and the Council of Ministers decides formally;
- the intended content is published and the reactions to this are processed and summarised. At the same time, consultations take place with provinces, municipalities and water boards;
- after hearing the opinion of the national planning commission, the government comes to a conclusion, publishes this and sends it to the Second Chamber together with the results of the public participation and the consultations with lower levels of government. The second Chamber can approve the decision wholly or partly, amend it or reject it. It is then sent to the First Chamber which can give or withhold its approval;
- only after the decision has been approved by both Chambers it is legally valid concerning those parts which have been fully approved.

It is the practice that the national spatial planning agency evaluates the key decision some time after it has been introduced.

The procedure for making and adopting a *regional plan* is as follows:

- the decision to make or revise a regional plan must be taken by the provincial council. It can also be imposed by the Minister for VROM which also can require that a certain content be given to this plan in order to realise national policy. The provincial government may appeal against such a directive, as can anybody else;
- the provincial executive prepares the regional plan. Consultations must be carried out with the provincial spatial planning committee and with the municipalities within the plan area;
- the draft plan is put on public display for eight weeks, during which period anybody may make written objections to the provincial council;
- within four months after this period has expired, the provincial council must adopt the plan, maybe after certain amendments. The adopted plan is then made formally public and becomes legally valid on the following day. The decision must be announced to the Minister for VROM;
- if an order has been issued by the Minister for VROM to the provincial council to make a regional plan and if the council does not do this, the Minister will make the plan at the expense of the province. It is, however, very rare that the Minister issues such orders or directives.

At the *municipality level* the formal procedure for making and adopting a structure plan is not regulated in much detail but is as follows:

- the municipal executive is responsible for the necessary research and studies. It is obliged to consult 'where necessary' with certain bodies of the public administration and the possibility of public participation must be included;
- the draft structure plan is put on display for four weeks, during which period written objections can be submitted to the municipal council. Objectors must be given the opportunity to explain their objections in person;
- the municipal executive considers the objections and decides amendments to the draft;
- the draft plan and a description of the treatment of the objections is submitted as a proposal to the municipal council which adopts the plan (possibly after amending the proposal) and announces this decision to the provincial council and the regional inspector of the national spatial planning agency. These bodies do not have to approve the structure plan, but the comments made must be taken into account when the municipality makes a *bestemmingsplan*

For both key decisions, region plans and structure plans appeals are possible against some parts of the decisions or plans.

The decision to prepare a *bestemmingsplan* is taken by the municipal council. The council can (but is not obliged) to issue a formal statement to this effect, which then is a temporary hindrance against new building permits and constructions which would make the area less suitable for the new designations (but the effects of this preliminary decree expire if a draft plan has not been put on public display within one year). Further, the Minister for VROM can oblige the municipal council to make or revise such a plan within a specified period. Also, the obligation to make or revise a plan arises if the area is a conservation area and has been put on the register. The further procedure is as follows:

- the municipal executive makes (or charges to be made) studies of the existing situation, possible developments and the feasibility (financial, social and economic) of the proposed plan. Where necessary the executive has to consult other municipalities

(with interest in the plan), the province, national government, etc.;

- the draft is put on public display for four weeks during which period anyone can lodge with the municipal council an objection and have the opportunity of explaining it in person to the municipal council;
- within eight weeks of the ending of the public display (or four months in case of objections) the municipal council must decide whether or not to adopt the plan. Then within four weeks the plan is put on public display for a further four weeks;
- during this period those who objected to the draft or those who object to changes made at adoption can lodge objection with the provincial executive. Also they must be given opportunity to explain their objections in person;
- within 12 weeks of the ending of the public display (or six months if there have been objections) the provincial executive must decide whether or not to approve the plan. It can approve the plan completely, in parts or not at all. Within two weeks the decision must be transmitted, accompanied by reasons, to the municipal council, to all objectors, the provincial spatial planning committee and the national inspector. The decision is put on public display for six weeks. The earlier objectors can then lodge an appeal with the Council of State;
- the Minister for VROM can overrule a decision of the provincial executive to approve a *bestemmingsplan* in case of inconsistency with national policy.

If the provincial executive or the minister has withheld an approval to parts or the whole of a plan, the municipal county must adopt a new plan within one year, taking account of the decision of the province or minister.

5. Legal status

A spatial planning key decision on the national level is usually indicative, not legally binding. However, since 1994, a key decision on a project of national importance can be made binding, in the sense that certain procedures become obligatory for determining infrastructure routes (major roads, national railway links and major waterways). There are of course important linkages with the spatial planning policy of municipalities and provinces. However, it is not the case that national government imposes the planning key decisions hierarchically on the lower levels of government.

A regional plan is indicative rather than binding. However, it has some binding force upon the province which made it. The limits within which the province may depart have to be specified in the plan. If the province wants to depart from an 'essential decision' it must first revise the regional plan. It may therefore only under exceptional conditions approve a *bestemmingsplan* which is not in accordance with such an 'essential'. There are also linkages with two other sorts of plan with a spatial content: the *waterhuishoudingsplan* (water management plan) and the *milieu-beleidsplan* (environmental policy plan), both of which the province is obliged to make under the legislation for environmental policy. There should be coherence between all these province plans.

Also a *structuurplan* is indicative rather than legally binding but may have legal consequences for certain actions of the municipality. So, for example, if the structure plan indicates that certain areas are for urban or village renewal, then the municipal council can decide that pre-emption rights can be used in these areas. And if a municipality applies for compulsory purchase power to realise a building plan, the

court may take account of the structure plan. However, if a municipality wants to make a *bestemmingsplan* for an area already covered by a structure plan, it is not obliged to make that plan conform to the structure plan.

A *bestemmingsplan* has many legal consequences and in particular it is legally binding when a building permit is being decided upon. The plan provides also the legal basis for requiring a construction permit, for obliging private developers of the land to contribute to the costs of providing certain public services, for claiming compensation for loss of value and for compulsory purchase. Because it is legally binding, it can be inflexible. To increase the flexibility there are provisions for revision, exemption and elaboration. If a preliminary decree is in force or if a draft plan has been put on display it is thus possible to give approval in anticipation of a new plan. In the plan it can also be specified that the municipal executive may allow exemptions if they would not endanger the plan. Exemptions may also be allowed for temporary departures for a duration up to five years or for temporary agricultural buildings. Exemptions for building works of 'limited planning significance' may further be allowed.

It is not usual in the Netherlands to think of the planning system as giving or taking away development rights.. However, the spatial planning act does allow for an interested party to claim *planschade* (compensation for financial damage caused by a *bestemmingsplan*), if a measure is taken which restricts the freedom of a citizen more than is general for the social situation a compensation is payable. The damage must have been caused by a change in the content of a *bestemmingsplan*. Damage caused by introducing such a plan for the first time is not eligible for compensation. Not all material damage can be compensated. For example, if the earlier plan admits office building on a certain land and this is changed to only houses in the new plan, compensation should be payable. But if the landowner had taken no action in the 10 years before the change he has 'missed the boat' and no compensation needs to be paid.

6. Implementation and control

In cases when development can take place only after the building site has been serviced (by infrastructure, water, drainage, etc.) it is customary for the development to start by the municipality acquiring the land and servicing it. The serviced building plots are then disposed of (by sale or lease) to those commissioning the building works. Thus most building land is supplied by the municipalities, and most building undertaken by private bodies and housing associations. It must however be emphasised that there is nothing in the legislation which requires development to proceed in this way. However, both the public and the private sectors find it convenient to divide the development process as described. But there are exceptions. In some growth areas building sites which have been identified for early development have been acquired directly from the agricultural owner by private developers. And some developers want to service the land themselves rather than acquire serviced building plots from the municipality. Governmental bodies are also free to enter into partnership with private bodies in order to carry out part or all of a project. When the development process consists of large-scale housing improvements but without significant changes in land use, the improvements are usually carried out by local housing associations working in close cooperation with the municipality.

The spatial planning act allows further a municipality to make an ordinance

(*exploitatie verordening*) stating the conditions under which it will co-operate in making land fit for building by 'providing facilities for general use'. That is, a potential developer can come to an agreement with the municipality about who does what and who pays what. The municipality may also levy a development tax on those whose interest in land has benefited financially by actions taken by the municipality. The basis for this betterment levy is the costs made, not the benefit gained. The levy can be used to recoup (some of) the costs which the municipality has incurred by providing roads and other infrastructure. The levy may be charged as a lump sum or spread over a period of (maximum) thirty years.

It is forbidden to build without a *bouwvergunning* (building permit). It is regulated by the *Woningwet* (housing act). Application must be made in writing to the municipal executive and consist of a standard form, building plans, location map, etc. It has always to be tested against the provisions of the national and the municipal building regulations, the regulations in the *bestemmingsplan*, appearance of the building as well as the need to protect a cultural building or monument. When the application is for development on land not covered by a *bestemmingsplan* or a living conditions ordinance, then the building permit has the nature of a broadly based technical permit (safety, health, utility, energy efficiency), but also certain planning aspects, such as visual appearance, is taken into consideration. When a building permit is granted, the municipality must inform in writing all those in neighbouring properties. The applicant, and other interested parties, may lodge an objection with the municipal executive against the decision of the municipal executive to grant the permit, to refuse it, to give exemption from it, etc. The executive may reconsider its decision. But otherwise appeal can be made to the court and further to the Council of State.

Other kinds of permit are *construction permit*, regulating the undertaking of certain construction works, and *demolition permit* in those areas where the taking of a building out of residential use is regulated or if a building is a registered monument or lies within a conservation area or within an urban renewal plan. Under certain circumstances also other permits are applied such as permit to withdraw a building from residential use, to occupy a dwelling, to divide one dwelling into several, to fell trees and to dispose of waste. Some other permits - often in connection with building permit - are required of environmental reasons, such as permit to extract groundwater, to discharge into surface waters or to discharge into sewers.

7. Heritage, environment

An area can be designated a *conservation area* by the Minister for Culture together with the minister for VROM. The objective is to protect from unwanted change an urban area valued for its history or beauty. After an area has been designated for conservation, a *bestemmingsplan* has to be made or revised, so as to include this designation and to specify appropriate conditions. Funding is made available for improving building and spaces. Buildings of importance for historical, architectural or cultural reasons can further be registered as monuments if they are over 50 years old and meet certain criteria. A municipality or province may institute its own conservation ordinance. National Government, provinces and municipalities may offer funding.

Environmental considerations have gained more and more influence during later years. They have often close connection to spatial planning but are regulated in specific

laws. Thus the *Natuurbeschermingswet* (nature conservancy act) from 1967 - operated jointly by the Ministry of Agriculture, Nature Management and Fisheries and the Ministry of VROM - is used to protect rural areas which are ecologically important, thus giving the protection of public law to certain areas called 'protected natural monuments'. An area can be declared *a national park, a valuable landscape or a management area*. The objective of a national park is to protect the nature within it, of a valuable landscape to protect the appearance of that area and of a management area to protect natural values in an area threatened by farming practices. In the last case a local agency of the Minister of Agriculture enters into private agreements with farmers, to persuade them to adopt environmentally friendly practices in return for monetary compensation. Generally, when a party with material interest suffers damage as a result of designation of a 'natural monument', fair compensation must be paid. National government as well as private interests can also acquire ecologically valuable sites.

Norway

1. Administrative structure

Norway is a constitutional monarchy. At a national level it is governed by the *Storting* (Parliament) which enacts laws and determines national taxation and budgets and the Government with mainly initiating, executive and administrative power. The Ministry of Environment has the main responsibility for spatial planning matters. It is divided in five departments. One of them is the Department of Nature Conservation and Cultural Heritage, to which the Directorate of Nature Management and the Directorate of Cultural Heritage are connected. Another is the Department of Regional Planning and Resource Management. The responsibilities of the ministry with respect to spatial planning includes administration and development of the Planning and Building Act and related legislation, adopting county plans and preparing national policy guidelines. The Ministry of Local and Regional Government is responsible i.a. for housing policy, housing finances and building regulations as well as regional development policy. Other ministries involved in spatial connections are the Ministries of Transports, of Agriculture, of Fisheries and of Oil and Energy.

The country is sub-divided in 19 counties (*Fylken*) including the main city Oslo, which is also a municipality. A county is governed by a politically elected County Council and a County Governor as the government's appointed representative at the regional level. Under the County Governor different departments have been established, among which the Department of Environmental Protection is the most important one with respect to spatial planning. It provides expertise and advice in matters relating to management of natural resources. The County Council has several departments concerning i.a. education, health, cultural affairs, communication and economic development. The Council is also heading comprehensive county planning, whereas the County Governor co-ordinates participation by state agencies in planning and its implementation. Several state agencies furthermore work with state sector plans within the county under the instruction of the ministers concerned.

At the local level, Norway has 435 municipalities, with population varying from 200 to almost 500 000 (Oslo) inhabitants. They are governed by elected municipal councils, which appoint executive municipal governments. The general trend over the last decades has been towards more services to be decentralized to county and municipal levels.

The two levels of local government should not be seen as a two-tier system in the conventional sense that the municipalities are subordinate to the counties. The relationship between the levels should rather be seen as a division of responsibilities and tasks. When considering the Norwegian government structure at the regional and local level it is important to keep in mind the distinction between political institutions on one hand, i.e. institutions based on local elections like the municipalities and the county councils, and state agencies at local and county levels on the other hand. However, the condition that there should be co-operation and interaction between state administration and local government institutions is a key feature of not least spatial planning.

2. Legal development

The present system of spatial planning has developed gradually during the post-World-War II period. The Building Act of 1924, which applied only to urban areas and aimed at regulating building activities only, was replaced in 1965 by a new Building Act applying to the whole country and aiming at integrating physical and socio-economic planning. The emphasis on integrated comprehensive planning has been further developed by gradually giving local government at county and municipal level more responsibility for service provision and planning, and by gradually strengthening local competence and capacity.

County planning was introduced by an amendment of the 1965 Building Act in 1973. At the same time the county level was strengthened both politically and administratively, introducing County Councils with direct elections and a more distinct political autonomy.

The 1965 Building Act was replaced by the present 1985 Planning and Building Act. The main importance of the new Act is the greater emphasis put on local participation in planning and wider powers given to the municipalities concerning their responsibility for planning and local development. It is a comprehensive planning law with provisions for spatial planning at all levels of government. The act applies to the whole country. Planning and building are regulated in the same act. The building part was reviewed recently, putting more emphasis on quality issues during all stages of the building design and construction process.

The Planning and Building Act is over-ruling other legislation related to spatial planning. Other legislation may however provide more specific regulations for the use of land. The most important sector laws include:

- The Nature Conservation Act
- The Outdoor Recreation Act
- The Farm Land Act
- The Cultural Heritage Act
- The Concession Act
- The Watercourse Act
- The Roads Act

Since 1998 changes in the Planning and Building Act are studied by a commission. The core of their task is to investigate, if the law can be improved as a planning tool to take care of important interests in the society and to develop it to obtain the best possible connection with other legal tools in the field. A main aim is to get planning according to the law to promote a sustainable development. A first report is published as NOU 2001:7 (Public Investigations of Norway). Among many other things the commission proposes a strengthening of the regional planning, leading to a partially binding plan, that at the local level *Reguleringsplan* will be the only type of plan while *Bebyggelseplan* is abolished and that more regulated frames for development contracts between the authorities and private developers are stated.

3. Spatial planning structure

The system is founded on the practical and political skill of local and regional

governments. The Government and the Parliament define national objectives, whereas the municipal and county authorities develop overall solutions on the basis of local issues and potentials. The general trend over the last decades has been that local government has generally been given more discretion to decide on its own organisation of activities. The system of spatial planning is characterized by the key role played by local government authorities in the planning process, and by the fairly wide powers granted local government concerning responsibility for the development of the local communities. At the same time these responsibilities are exercised within the limits of a general policy framework and policy guidelines laid down by central government.

Norway has no formal National Plan. At the *national level* the Ministry of Environment has as said the main responsibility for spatial planning and is also in charge of areas like nature conservation, cultural heritage, outdoor recreation and pollution. The Parliament and the Government set up the major national laws and objectives and the Ministry issues comprehensive guidelines in co-operation with other ministries reflecting the national objectives to which municipalities and county councils should pay attention in their planning processes. The Planning and Building Act does not stipulate national policies or guidelines. The central government is, however, given the opportunity whenever appropriate. The Ministry shall also work to ensure that the decisions made at the national level are followed up in the county and municipal planning. The Ministry may furthermore be involved in preparing local development plans, when implementation of important national or county council measures of development, construction or conservation makes it necessary. It may request the relevant municipality to prepare and adopt such a plan or the ministry may do this. It may also decide upon inter-county or inter-municipal planning, e.g. establishment of the required co-operative bodies, the tasks the co-operation should include and the geographical area it should cover.

At the *county level* county plans are obligatory and have to be renewed during each electoral period (4 years). The county council is responsible for their establishment. A plan consists of objectives and long-term development guidelines. The plan shall also contain a co-ordinated action programme for the activity of the national and municipal sectors, stating how the objectives are to be achieved. It should lay down guidelines for the use of land and natural resources in the county in matters that will have major impact beyond the boundaries of a municipality (figure 18). When appropriate, a county plan may be prepared for specific activity areas or groups of projects covered by the county planning or for parts of the county. Examples of such partial county plans could be plans to regulate the integrated use of a watercourse or plans to stimulate the development of tourism in a specific area.

Experience with county planning has shown that the action programme part of the plan is the weaker element, and that the county plans so far have only been moderately effective in actually directing development in the counties.

The main spatial planning is done at a *municipal level*. There are three types of plans that are developed locally in the municipalities according to the Planning and Building Act: the Municipal Master Plan, Local Development Plans and Building Development Plans. The land-use part of the municipal master plan is a comprehensive plan intended to cover the whole territory of the municipality but may also be prepared for only a part of the territory. The local development plan is usually prepared for a smaller area for specific development or protection purposes, e.g. a residential area, an office complex or green areas such as parks. A building development plan is prepared when, according to the master plan or the local development plan, it is required as a basis

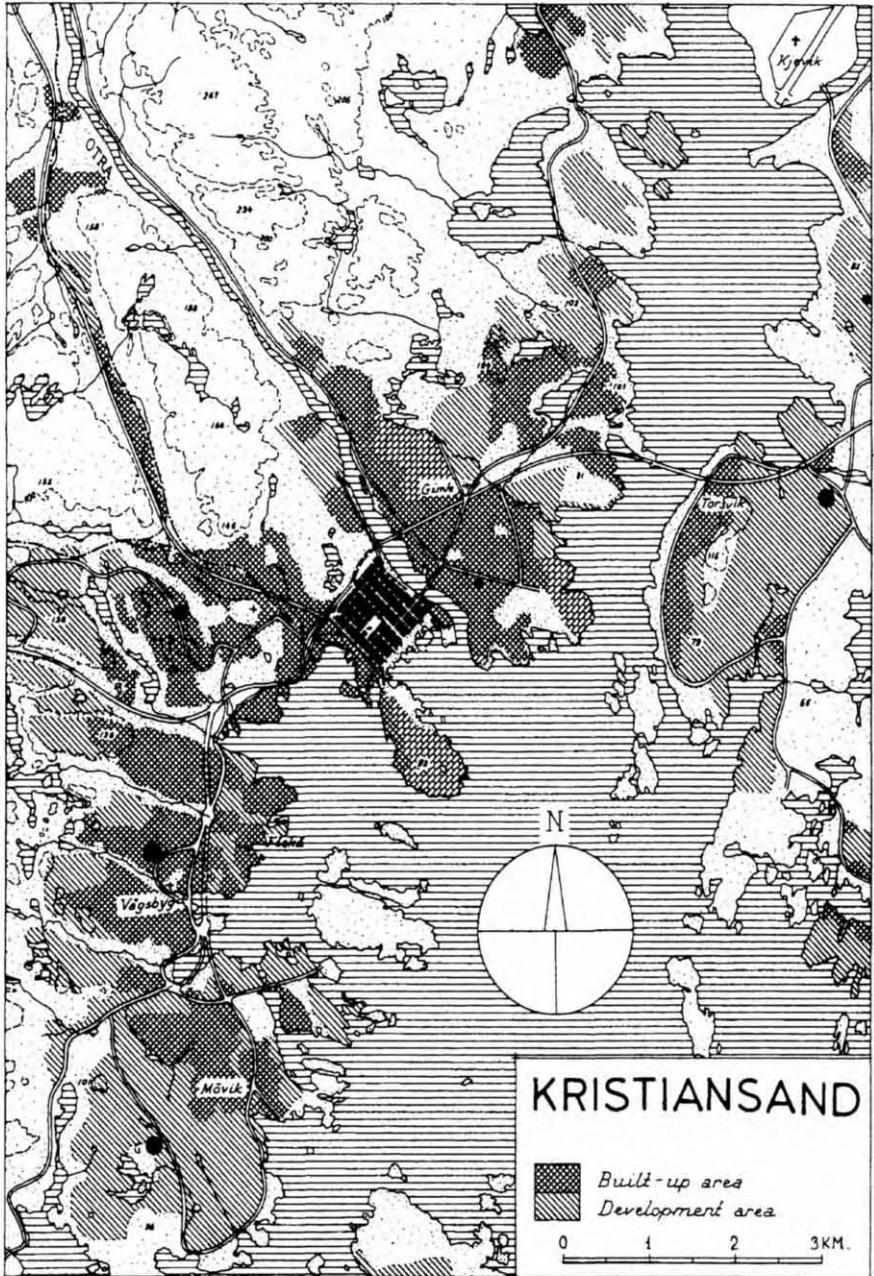


Figure 18. Part of the regional plan of Kristiansand (Hall 1991)

for local development.

A Municipal Master Plan (*Kommuneplan*) shall consist of a long-term and a short-term component. The long-term component consists of goals for the development of the municipality, guidelines for sector planning and a part referring to land-use to enable management of land and other natural resources. The short-term component comprises an integrated action program for the sectors' activities during the next few years. In the part of the Municipal Master Plan referring to land-use, the following categories of land-use zoning should be used to the extent they are required: building areas, agricultural areas, nature areas and areas for open-air recreation, areas for extraction of raw materials, areas reserved or intended to be reserved for specifically defined purposes and important links in the system of communications.

A Local Development Plan (*Reguleringsplan*) is a detail plan which regulates the use and protection of land, watercourses, sea area, buildings and the external environment in specific areas. It may contain provisions concerning the design and use of areas and buildings and may impose conditions for use or may prohibit certain kinds of use.

The Building Development Plan (*bebyggelseplan*) establishes land use and design of buildings and installations within a specifically limited area.

Besides the plans according to the Planning and Building Act, sectoral authorities at all levels provide plans within their own sector. In principle, however, these plans are subordinate to the former Act as mentioned earlier. A basic idea underlying the division of work and responsibilities between central and local levels of government is that sectoral policies and planning shall be co-ordinated at county and municipal levels. Comprehensive spatial planning is one of the key instruments of such co-ordination. At county level the responsibility for co-ordinating sectoral policies is divided between the county council and the County Governor. The latter is responsible for co-ordinating state sectoral authorities within the county.

4. Process

The County Council is responsible for and leads the work of establishing a *county plan*. Every county shall have a skilled and competent planning administration. During the work with the plan necessary contacts and consultations shall be taken with appropriate state, municipal and sector authorities as well as organizations. All public bodies concerned are obliged to participate in this process. The Council shall as soon as possible publish proposals concerning objectives of development and main points of long-term guidelines for different sectors as a basis for a public discussion. A draft of the plan is sent to the County Governor, the municipalities within the county and to organizations concerned which have to submit their comments within stipulated time, not shorter than 30 days. After approval by the Council, the plan is sent to the Government for final approval. If required by national interests, the Government may make changes to the plan

An evaluation of the plan shall be made at least every second year which possibly may lead to changes in the plan. If these are considerable and of national or municipal interest, they must be announced to the Ministry of Environment which decides, if the plan wholly or partly shall be taken up for a new treatment.

During the preparation of the *municipal comprehensive plan*, objectives and main principles shall be discussed in the municipal council, whereafter the planning administration prepares a draft. State agencies, county authorities and interest groups as

well as neighbour municipalities concerned may be consulted. The council will then make a preliminary approval of the plan, whereafter the plan is submitted for comment to the county authorities, state agencies and organisations with particular interest in the plan as well as neighbouring municipalities. It must furthermore be announced in the local press and made available for public inspection and comments for at least 30 days. If the County Council or the relevant national authorities have objections to the plan, adjustments must be made by the municipal council, if not counselling by the County Governor leads to another agreement. If agreement is not reached, the plan must be sent to the Ministry of Environment for approval. In this case the Ministry may make such changes to the plan as found necessary. The Ministry may also make changes to the plan based on national interests, even if there are no objections to the plan.

The establishment of a *local development plan or building development plan* essentially follows the same procedure. In this case the planning authority is also obliged to announce the planning at the very start of the process, inviting the public to comment on the issues to be considered. The Ministry of Environment has the power to make changes to the plan based on national interests. Property owners, developers or other parties taking an interest may prepare a proposal for a local plan and present it to the municipality. The municipality may decide to reject the proposal or to go on with the regular procedure.

The Act contains provisions granting interested persons and groups opportunities to participate actively in the planning process. This may be done through meetings with the parties involved, by direct consultation or by more actively involving individuals or groups to provide input in the planning process. Planning authorities are also obliged to announce the planning at an early stage in the process.

The Planning and Building Act does not contain regulations concerning appeal against county plans. The approval of the municipal comprehensive plan may not be appealed against. The approval of local development plans and local building plans may be appealed against to the Ministry of Environment.

An Environmental Impact Assessment should be carried out for projects that are anticipated to have significant impacts on the environment, natural resources and communities. The Ministry of Environment decides which projects are required to submit an EIA.

5. Legal status

National policies and guidelines have no legal impact. The County Councils, municipalities, County Governors and other state agencies are, however, obliged to address relevant issues in their county and municipal planning.

The *county plans* are mainly policy documents with main roles to formulate common objectives for social and economic development in the counties. They are not legally binding. The approved county plan, however, gives direction to all sector planning and municipal planning within the county. For instance, if a state agency wishes to deviate from the plan, the agency is obliged to consult the County Council planning authority. In case of disagreement between the County Council and the state agency, the County Council may appeal to the Government.

The land-use part of the *municipal comprehensive plan* is legally binding for all parties (the municipality, the landowner and the developers). Within the framework of the plan, public or private developers may develop land allocated for building and for commercial development purposes. Development work which is not in conflict with the

plan may be carried out with or without a building permit, depending on the type of development.

The *local development plan and the building development plan* are binding on all parties. Municipalities are however to an increasing extent granting exemption from their own plans. And even if the Planning and Building Act as mentioned earlier shall overrule sectoral Acts in spatial connections, certain sector plans and decisions are in reality superseding the comprehensive planning undertaken by the County Councils and municipalities. A problem might also be that the mechanisms for co-ordinating spatial planning across municipal boundaries are not sufficient.

6. Implementation and control

The detailed spatial planning in Norway is mainly the responsibility of the municipalities, but the actual implementation is usually depending on private initiatives. Partly, this depends on the housing structure. Most of the homes are built as one-family houses and a substantial part of the rest are co-operative houses. But stimulation to the production is provided by funds for grants and loans on favourable terms. The State Housing Bank is the central government's main instrument for implementing the national housing policy.

Municipalities play a crucial part by providing sites ready for building based on local development plans and by securing the necessary technical and social infrastructure. The role of the municipalities is an independent one without specific directives from the national level. Many municipalities have established public real estate agencies to purchase and develop land for housing. But the establishment of considerable land-banks is not a common policy. The building of streets, watercourses and sewage is mainly a public responsibility, but parts of the costs can later be charged to the landowners or developers.

Otherwise, the activities of the local authorities concerning plan implementation are mainly controlling in connection with handling of *building permits*. The type of plan which provides the basis of such permits may vary. The main plan is in this respect the municipal Master Plan which distinguishes between areas that can be developed and areas for conservation. For a major development, however, the Planning and Building Act requires a Local Development Plan or a Building Development Plan before a building permit is granted. In some cases the municipality will also demand such a plan even for smaller development.

In general all building and construction work as well as demolition or change of use need a building permit. The main exceptions are for minor alterations for dwellings and for buildings for agricultural purposes (but even for these exceptions it is necessary to notify the municipality which can demand all the necessary information in order to secure that it is in accordance with the Act and the plans). When the proposed development agrees with the Planning and Building Act or a valid plan for the area concerned, the municipality has to grant a building permit.

Application for a permit must be made in writing and shall provide the information necessary for the municipality to decide whether the conditions for granting are fulfilled. The application consists of a description, a site plan, ground plan drawings, cross sections and facades and a copy of notification to the neighbours. It is advisable and a standard procedure to have a conference with the building authorities before an application is sent to the municipality. If it is necessary to obtain permission also from other authorities by law, the application should contain information about this. If

approval or 'statements' are given by other authorities, these should be included in the application. If this is not the case, the municipality submits the application to the authority concerned.

The application should furthermore specify, if an exemption from rules or plans is sought. The municipality, unless otherwise stipulated in the provisions or plan concerned, may after application grant permanent or temporary exemption from provisions or municipal plans and also from the general ban against subdivision and building along the shoreline. Before a decision may be made adjacent and opposite neighbours must be notified. A major alteration or cancellation of a detailed plan must be made according to the procedure which applies to the preparation of the plan. Minor changes may be made by the Permanent Planning Committee of the municipality. Owners/lessees of properties directly affected shall be given the opportunity to express their opinion.

The municipality has the right to ensure that work is carried out in compliance with the Act, regulations and conditions of the permit. It may require that those of the developer's expenditure tests which are necessary for control are carried out.

The applicant as well as the neighbours are entitled to appeal to the town council against decisions made by the municipal planning committee pursuant to the Planning and Building Act and furthermore to the Ministry of Local Government and Labour.

7. Urban renewal, heritage, environment

The responsibility for formulating policies and for taking the initiative to start an *urban regeneration* project lies with the municipality. Public funds are available and usually transmitted through the State Housing Bank. Its main objective is to provide cheap housing loans and grants for middle- and low-income individuals and for co-operative housing.. The bank provides loans and grants for regeneration of single family homes, apartment buildings and external restoration of housing areas. In urban regeneration the bank operates through the municipality by annually providing advance promises of loans and grants.

In connection with major renewal projects the municipality can intervene and acquire land by voluntary or compulsory purchase. The right of compulsory purchase concerns individual buildings, groups of buildings or unimproved land.. A local authority may thus purchase individual lots with or without buildings. To implement renewal of the urban fringe areas, a local authority may further purchase land, provide infrastructure and lease or sell parcels of land to individuals or enterprises, housing cooperatives, etc.

Partnerships between local authorities and private investors often occur in connection with urban renewal and will generally adhere to the following pattern. The municipality will in contact with land owners designate an area for renewal. Most often all properties within the area will then be expropriated, derelict buildings will be taken down and the land cleared. With or without a planning competition a programme for desired activities, new street pattern etc. is developed. Private enterprises, commercial banks and other financial institutions are then invited to buy the land and develop it. Usually the city will retain ownership of land only for streets and other public purposes.

The Government considers the preservation, adaptation and use of *cultural heritage* an important task. The Ministry of Environment manages this policy area. The executive agency at the central level is the Directorate for Cultural Heritage.

Monitoring is mainly the task of regional inspectors within the County Governor's office. Officers responsible for the monitoring claim that they too often get involved in issues at too late a stage. To compensate for this all major land-use projects must by statute be reviewed at an early stage by County Inspectors. The Government will give priority to the work of providing a geographic and socially balanced picture of the built heritage with emphasis on protection of labour and coastal cultures.

All monuments and sites earlier than AD 1537 are automatically protected as well as all Sami (Lapp) monuments and sites that are more than 100 years. A protected zone around these sites is also stipulated. The Ministry of Environment may also protect structures and installations of cultural-historical or architectural value. Prior to this, contact should be established with the relevant municipality and the public. The plans as well as the formulated protection order should be announced in two newspapers and made public for comments.

A particular priority during recent years has been to strengthen the *environmental* aspects of spatial planning. 'National Policy Guidelines for Co-ordinated Land Use and Transport Planning' are expected to make it easier to implement national environmental objectives for more sustainable development through the planning system. Likewise, provisions for the use of environmental impact assessment have been given more emphasis in the legislation.

One main aspect of environmental consideration is the protection of the countryside. The Nature Conservation Act is here of special importance and includes the designation of nature reserves, national parks, protected landscape areas and natural monuments. Minor areas have also been protected or made subject to restricted use according to the Planning and Building Act, the Wildlife Act and Act on Forestry and Forest protection. Generally, there is also a ban on building activity within a 100 meter wide belt along the seashore for the whole country. This does not apply to existing built-up areas.

The purpose of national parks is to protect larger areas. Especially outdoor recreation is of importance when they are established. But protection of nature is also a principal objective. National parks are situated primarily on state property and mostly represent mountain areas and forests with low productivity.

The nature reserves are supposed to be without human impact and are established to protect nature and wild life. The following types of endangered habitats have been given priority: wetlands, rich deciduous forests, marshlands, water-fowl habitats and areas of special geological importance. They mostly cover areas smaller than national parks.

Protected landscape areas represent the weakest form of protection. The areas can encompass cultivated as well as natural landscapes, and some include forests. In these areas special kinds of use are normally restricted rather than forbidden

The modernization of Norway was to a large extent based on the exploitation of the water courses to produce hydroelectric power. This resulted however in significant impact on the nature and therefore in increased conflicts, especially in the last four decades. The result was the development of Conservation Plans for Water courses in the form of administrative decisions made by the Parliament. The 1993 Conservation Plan clarifies water courses, where development permits will not be granted.

In Norway, outdoor recreation is a very important matter, also from the viewpoint of tourism. The Outdoor Regulation Act regulates the right for people to move over other people's property. According to this all people have the right to use uncultivated land for recreation and cultivated ground when the ground is frozen for activities which

do not damage the ground or disturb owners or other users (similar rules exist in the neighbouring Sweden and Finland).

Of course, environmental considerations also include a wide area of pollution and waste control, conservation of biodiversity, sustainable use of sea resources, etc., some of which have spatial consequences. But it would lead too far to go deeper into these issues here.

Portugal

1. Administrative structure

Portugal is a republic, at the national level governed by a parliament and a cabinet of Ministers. It is subdivided in five regions of the mainland and the two groups of islands Azores and Madeira with autonomous governments. It has 305 municipalities.

The central government department directly associated with the planning system is the *Ministério do Equipamento, do Planeamento e da Adminstracao do Território, MEPAT* (Ministry of Public Works, Planning and Territorial Administration). Within this Ministry there is a Secretary of State for Local Administration and Physical Planning. It is responsible for major political decisions, government legislation and policy guidelines within the field. The technical and administrative support to the formulation of physical planning policy and to the co-ordination of sectoral projects or programmes which have spatial impact is provided by the Directorate-General for Physical Planning and Urban Development within the *MEPAT*. Another ministry of importance in this connection is the *Ministério do Ambiente* (Ministry of Environment) with its Directorate-General for the Environment. The Institute for Nature Conservation is an institution with administrative and financial autonomy operating under the umbrella of the Ministry of Environment.

At the *regional* level, the *Comissoes de Coordenacao Regional, CCR* (Regional Co-ordination Commissions) are regionally deconcentrated services of the *MEPAT* and provide the major link between local and central administrations. They are also responsible for the preparation of regional physical plans. Their main objectives are the co-ordination of development interventions at the regional level and the provision of technical and administrative support to the local authorities. Each has a President, a Regional Council (where the municipalities are represented), a Co-ordinating Council and an Administrative Council. In a similar way the Ministry of Environment has regional directorates for deconcentrated services.

The archipelagos of Azores and Madeira have as autonomous regions their own parliaments, directly elected every four years, and regional governments. The constitution allocates the autonomous regions a wide range of powers. As far as spatial planning is concerned, the regional governments define the policy and directives to be followed in the region.

At *local* level the *Camaras Municipais* (municipalities) have local governments, elected every four years. The political power is shared between an executive, headed by an elected Mayor, and an assembly. These authorities are concerned with all the issues which relate to the interests of the local population. They are the most important institutions for planning purposes because of their direct responsibilities for plan making and development control, however, in some circumstances requiring confirmation and/or approval by higher levels. They are empowered to set up associations with other municipalities in order to carry out activities or provide services of common interest. The municipalities are mainly financed by specific local taxes and a share derived from the national budget.

2. Legal development

For long, planning was seen as an exclusively policing activity. Its only objective was to ensure that, in the process of urban land development, no detrimental impacts were directly inflicted on third parties. Until 1971 the municipal exercise of development control was based on the Administrative Code of 1936-40 and on the Decree Law No 33921 from 1944, and was geographically limited to existing town and city boundaries. The lack of flexible incentive schemes and tools, and of a long-standing planning tradition meant that planning practice was essentially based on the imposition of restrictive measures and controls, often with inefficient results. The Decrees Law no 560/71 and 561/71 introduced three new types of plans, namely the *Plano Geral de Urbanizacao (PGU)*, *Plano de Pormenor (PP)* and *Planos Gerais de Urbanizacao de Areas Territoriais (PAT)*. With the *PGU*, the boundaries for urban planning interventions were marginally extended to include adjacent countryside areas for urban expansion. *PP* is a detailed planning instrument. With the *PAT* - intended to cover an area possibly incorporating several municipalities - the conceptualisation of the Portuguese planning system finally embraced the whole territory, gaining a truly 'town and country planning' dimension. Its preparation was a responsibility of central government. With the emergence of a stronger local administration, this type of plan has fallen into disuse, and a new policy instrument, the *Plano Regional de Ordenamento do Território, PROT* (a regional physical plan) has been developed.

With the emergence in the early 1980s of the concept of the *Plano Director Municipal, PDM* (Municipal Director Plan), structuring the whole municipal territory, an important step was taken to depart from an long-established tradition of blue-print planning. *PDM* provides an overall framework for the preparation of more detailed local level plans. Currently, the nationwide preparation of *PDM* represents a massive and unprecedented planning effort which is in sharp contrast with previous planning experience. In fact, very few municipalities, with the exception of the larger cities, had in the past prepared statutory urban development plans. A 'new cycle' of planning is progressively emerging. The regulatory approach with the imposition of planning constraints is giving way to new forms of positive urban design. There is also a growing environmental awareness.

The most important current planning legislation consists of the different decrees/laws that define each type of plan and of a variety of decrees dealing with building licensing, land subdivision schemes and urban development works and infrastructures. Planning legislation and planning regulations are thus spread over a large number of different legal documents. There is still no framework law for physical planning.

3. Spatial planning structure

In practice, the Portuguese planning system is essentially a two-tier system (national and local) with the regional planning being performed by central government agencies operating at the regional level - *CCRs*. At the *national* level the core of the spatial planning system lies at the *MEPAT*. The Ministry has four main areas of intervention: the co-ordination of regional development, the relationships between central and local government, land-use planning and science and technological development. As far as

physical planning is concerned, the Ministry constitutes the political decision centre which establishes overall planning policy guidelines and produces the regulatory and legislative framework. It is responsible for the preparation and final approval of the *PROT* and participates in the approval process of the National Ecological Reserve as well as of physical plans for protected areas and for coastal zones and also of Municipal Director Plans. The Ministry further accommodates the General Inspectorate of Territorial Administration, which has legal supervising responsibilities over all administrative decisions of local authorities, including those associated with plan implementation and development control.

At the *regional* level the *PROT* defines for regions or sub-regions the criteria for the spatial organisation of activities and use of land. It is a supra-municipal plan involving a variable number of municipalities which are grouped according to a government decision after consulting the municipalities involved. It is constituted by a Report and a Regulation, including both written documents and graphic material. The *PROT* is required to take into consideration areas which should be protected (due to their agricultural or ecological value or to their cultural, recreational and touristic interest), the hierarchy of urban centres and the main infrastructures of regional and national importance. It should also indicate the location of the more important projects of public equipment and industrial zones. The *PROT* is also required to allocate certain areas to specific types of land use (figure 19).

At the *local* level the *PDM* provides a strategic framework for the development of a municipality. It is the main spatial planning instrument at this level. Once approved, it remains valid until a political decision is made to review the plan, but the law suggests that revision should take place within 10 years after approval. The main objectives of the plan are to establish principles and rules for land-use change and provide a framework for the municipalities to prepare their programme of activities. It is also supposed to identify housing needs. A municipality has a duty to prepare a *PDM*. The lack of an approved and effective such plan may prevent the local authority from having access to some development policy instruments. The law permits three types of document in the municipal land-use plans: fundamental, complementary and ancillary. The fundamental documents consist of a regulation which is graphically translated into one map showing restrictions to land use change and another map containing the plan proposals in terms of land use and development control. Two complementary documents are compulsory: the intended time scale for main public works including the preparation or revision of other planning instruments and a financing plan with cost estimates of proposed municipal investments and anticipated funding sources. The ancillary documents include the studies which support development proposals, the existence of higher level plans and a map describing the existent land-use situation.

Other types of local plans are the *Planos de Urbanizacao, PU, and Planos de Pomenor, PP*. The *PU* (Urban Development Plan) defines the spatial organisation of urban areas. It can encompass the whole urban area or only part of it and defines the spatial organization, establishing an urban boundary and a global view of the urban form. In particular, it is supposed to establish urban 'parameters' (i.e. dimensioning criteria to guide development control), building uses, patrimonial legacy to be protected, the location of public facilities and open spaces and schematic location diagrams of roads and other main infrastructures. The law suggests that revision of the *PU* should take place not longer than 10 years after its approval.

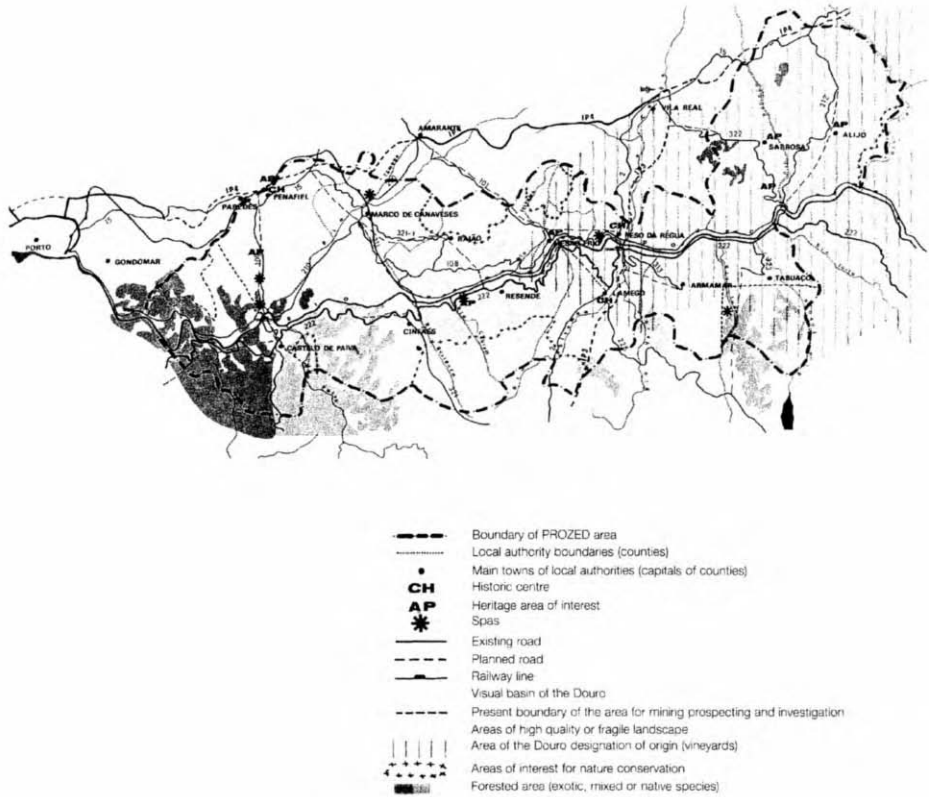


Figure 19. An extract from a Portuguese regional plan

A *PP* (detailed local plan) is used for a specific area of the municipality. It conveys a concept of urban spaces defining land uses and building guidelines as well as specifying design characteristics of facades and public open spaces. Among the fundamental documents, the *PP* also includes a 'lay-out' map which establishes the land subdivision, alignments, the precise location of buildings, the number of storeys or height, the number and type of dwellings (number of rooms), total building area and their intended use destination, nature and location of public facilities and also density and handling of existing buildings (maintenance, rehabilitation or demolition). Also in this case the law suggests that a review of the plan should take place no more than 10 years after its approval. But once approved, the plan remains valid until another political decision is taken.

A further mechanism of plan preparation at local level exists based upon the *Lei dos Loteamentos* (land subdivision Law). Although this legislation is often regarded as a part of the licensing system rather than statutory plan preparation, it can be considered as the equivalent of a land-use plan for specific urban development projects.

Besides more general planning instruments, specific sectoral planning for

infrastructure etc. is also performed, normally under the responsibility of respective ministry and its subordinated organisations.

4. Process

The *regional* planning instrument *PROT* is prepared by the *MEPAT* through its regional co-ordination commissions *CCRs*. The preparation is accompanied by a Consultative Commission which includes a representative from the Directorate General for Spatial Planning, a representative of the *CCR* and a representative of each municipal included in the area. The Commission also includes members representing institutions, whose participation is considered as necessary. The *CCR* may resort to other agents or institutions to develop specific studies judged as necessary.

Public participation takes place before the final approval of the *PROT*. This process includes public meetings in all the municipalities involved. The Consultative Commission must write a report on each of these sessions highlighting the more relevant issues. In particular circumstances those commissions can propose specific amendments in the plan. The Consultative Commission must be heard before the final decision takes place, reporting on the results of the exercise of public participation. In the end of the preparation process the Consultative Commission also prepares a final evaluation report including comments on the public participation process. Only then will the publication of the final version of the *PROT* be made.

At the *local* level the preparation of the *PDM* is monitored by a technical commission chaired by the relevant *CCR* and including necessarily the municipality, the Director-General for Physical Planning and the regional Directorate for the Environment and Natural Resources. This commission may include other departments of central administration thought relevant. The commission aims to facilitate the articulation of sectoral programmes and initiatives, as well as promote conformity between plans and programmes. Public participation is guaranteed through two mechanisms. The first derives from the right of public access at any stage to the process of plan preparation, approval and ratification. The second derives from the legal requirement for a 30 days period in which the proposed plan is deposited for public consultation, so that the public can raise questions and express opinions about the plan. This period takes place in the final stages of plan preparation, after the plan proposal has successfully gone through a process of institutional consultation and before being discussed in the Municipal Assembly. After approval by the Municipal Assembly, the proposed plan still has to be ratified by central government.

The municipalities are responsible for the Urban Development Plan, *PU*. But the preparation can be monitored by the *CCR*, if required from the municipality. The plan is approved by the Municipal Assembly. When there is no effective *PDM*, the *CCR* must be consulted before ratification, which in this case is done by central government.

The municipalities are also responsible for the preparation of detailed local plans, *PP*, and the municipal assembly for its approval. In case where there is no effective *PDM*, the same rules are valid as for the *PU*. Concerning public participation, *PU* and *PP* follow similar rules as the *PDM*.

According to the Code of Administrative Procedures 1991, all citizens who thinks they have been harmed or suffered any kind of damage as a consequence of an administrative decision have the right to *appeal*. This appeal can be directly addressed

to the official responsible for the decision or to one of his/her superiors or to the empowered institutions to which they belong.

5. Legal status

From a legal point of view, physical plans are administrative regulations. In this sense they are rigid documents of a normative nature, subject to periodic revisions and establishing penalties if not respected. From a technical point of view, the rules incorporated into the different types of plans present different levels of detail and, as result, exhibit different levels of flexibility. For example, the *PROTS* are essentially structure plans defining broad macro zoning and general land-use policies, the *PDM* defines dominant land uses, whereas the *PP* defines with precision the conditions and technical requirements that buildings and other structures must follow.

The norms and principles established by the *PROT* are binding to all public and private agents and institutions. All project, at either local, regional or national level, must comply with the prescriptions and proposals of the *PROT*, otherwise they are considered as having no value.

The *PDM* is an 'administrative regulation', i.e. it is legally binding if formally approved. The same is the case with the *PU* as well as with the *PP*. Any development proposal must thus conform with the plan. Otherwise, a revision of the plan would be necessary, requiring a set of procedures similar to those which supported its preparation. Minor changes which do not conflict with the principles established by the plan may be accepted once relevant institutions and/or departments of central administration issue their agreement and the Municipal Assembly approves such changes.

The effectiveness of the prescriptions of both the *PDM*, *PU* and *PP* may be totally or partly suspended by central government in exceptional situations, either where is apparent public interest or by the Municipal Assembly when the municipal interest is at stake.

6. Implementation and control

To a certain degree the Central Government and related agencies are active in housing programmes, by support from funds and by low rents but also by more direct intervention. Within the Ministry of Public Works, Transport and Communications the National Housing Institute is responsible for promoting and providing support to initiatives of social and/or low-cost housing. These initiatives can come from the municipalities, co-operatives and even private firms with a commitment to respect specific price limits. According to the low-cost housing programme the Institute can acquire or put on the market some land plots below current market prices.

The public may also act in other ways. The municipalities may thus define *Areas de Desenvolvimento Urbano Prioritário* (priority areas for urban development) as well as *Areas de Construcao Prioritária* (priority areas for building purposes). The aim is to promote land market dynamics by inducing property owners to start the urbanisation processes. The delimitations have a five years time horizon and are decided by the Municipal Assembly. The property owners have the opportunity to participate in the process. They are supposed to suggest solutions and make alternative proposals. Once

the areas are designated, property owners must choose between taking the initiative to make land available to urban development or allowing the municipality to take the initiative of promoting the urban development. In the latter situation the Law establishes the criteria to guide the compensation payment to property owners.

Most development, however, is left to the private sector, under control of the State. Formal planning instruments do not grant any development or building rights although the 'presumption' that such rights will be given increases with the level of detail of effective and formal planning instruments. These are acquired through the licensing system. The main legislation regulating this is the Law Decree 445/91 (Municipal licensing of private development).

Licenses - *building permits* - for construction works are issued by the local authority, following the submission of an application. All construction activities (including the works which change local topography) require, with few exceptions, authorisation from the local authority. The exceptions are minor repair or construction works, which do not introduce any new change of material, structure and shape of the buildings and those works that are the responsibility of either the local or the central administration.

An optional first step is a request by the applicant for preliminary information about the possibility of building on a specific plot of land and the conditions to be respected. The local authority must justify the legal basis of its decision. The submission of the planning application itself then follows. It must necessarily contain, among other documentation, the architectural project plus an estimate of the cost involved and the time scale of the construction work. An assessment follows of the architectural merits of the project and agreement with existing effective plans and/or relevant planning instruments. If the project is approved, the applicant will have to submit within a given period of time other specialised projects (e.g. water supply, sewerage, electricity systems). An approval by relevant central administration departments is sought once the specialist projects have been received. The local authority sends these to the relevant institution and/or departments of central administration for consultation. Any negative statement must be based on legal considerations. The decision of the local authority is then made. In case of a refusal it is possible to appeal to an hierarchically higher level. In case of a positive decision the issuing of a specific permit to carry out building work follows. This requires taxes as well as other charges to be paid by the applicant. When the construction work is finished, the local authority will visit the building and may subsequently grant the 'right to use'.

Another main permit is according to the *Lei dos Loteamentos* 1991 (Land Subdivision Law) concerning private urban development initiatives. It applies to all projects involving the subdivision of property into smaller plots for the purpose of development in areas designated as 'urban' or for 'urban expansion' as well as in areas for 'industrial' location. In general, the application for a permit goes through the following stages:

- the application for land subdivision is submitted to the Mayor and then goes through a formal process of verification;
- the local authority starts the process of consultation with other government departments. A justified refusal from any of these departments may result in

the need to resubmit the application. If there is no effective plan in that area, the *CCR* decision is binding. If the development project relates to more than 10 hectares or involves the creation of more than 500 dwellings, then the decision of *CCR* must be ratified by the *MEPAT*. The same procedures apply to a local authority initiative if there is no effective plan in the area;

- a decision is made. Refusal to grant a permit has to be related to specified reasons;
- the permit will specify the plots that must be used as public open space or for collective use and where the public equipment and infrastructure will be located. The management of these community infrastructures can be done by the residents themselves following a protocol with the local authority;
- once the land subdivision scheme is approved, it is necessary to obtain a permit to carry out site infrastructuring. This permit may be backed by a contract between the applicant and the local authority which clarifies the rights and duties of the parties. The local authority cannot grant building permits for individual plots if the site is not yet adequately infrastructured.

There are three different types of taxes which the private developer may have to support. The first concerns the cost of site infrastructuring which in principle should be supported by the developer. The second concerns the need for 'public space'. The developer cedes to the municipality a pre-determined amount of land whenever the local authority judges it appropriate. A third type of tax refers basically to administration costs.

In addition to the two main permits mentioned above, there are some specific permits that must be obtained when development projects are related to specific activities (industrial, tourism or recreation, large-scale commercial and quarrying activities).

There has earlier been much illegal activity in Portugal, designated as *clandestinos*. These are basically either housing activities of low income strata and of private developers wanting to avoid complicated legal procedures or second-home near the sea-side. This problem has recently been reduced in importance by a major national program.

7. Renewal, heritage, environment

Urban regeneration in Portugal focuses on housing renewal. There are many different organisations and agencies that have specific responsibilities in this field. The National Housing Institute has as mentioned a responsibility for the general formulation of housing policies, the preparation of a National Housing Plan and Investment Programme and supporting housing development initiatives from a financial and technical point of view. In recent years the interventions of the Institute have also been associated with urban regeneration projects. The *Gabinetes Técnicos Locais* (local technical offices) have been established in a significant numbers of local authorities and are responsible for the preparation of rehabilitation projects for common and public spaces and for the repair of buildings. There exists also special programmes such as the Metropolitan Areas' special rehousing programme with objective to put an end to shanty and overcrowded housing conditions in the metropolitan areas, mainly by

providing special financial conditions to cover the costs of site acquisition and infrastructuring, construction of new housing or acquisition of old buildings to rehouse people living in the shanties. The Regeneration Programme of Urban Problem Areas is run by the Directorate General for Physical Planning. This programme is intended to provide financial support to local authorities to carry out studies and works of regeneration in declining urban areas. Subsidies cannot exceed 20 % of the total construction costs. There exists also a special financial scheme for the rehabilitation of rented properties in poor condition, restricted to owners or occupiers of rented property who, through the 1985 rent control legislation, are subject to extraordinary correction of rent values.

There is no spatially oriented approach to the *preservation of the built environment*. Buildings, groups of buildings or specific sites are classified in an ad hoc way. But once a classification is made, there is a spatially defined protection zone, where licensing procedures will be modified in order to allow the Portuguese Institute for the Architectural and Archaeological Heritage, which is a department of the Secretary of State for Culture, the right to approve or refuse a planning permission. It can also enforce the carrying out of repair work in privately owned classified heritage and supervises project implementation (there are some incentives and tax benefits for that purpose and in special cases also some public support). The institute plays a major role in the definition and implementation of the policy towards the built *heritage*. It is responsible for assembling the necessary information to justify the classification of a given building or site of national interest. The initiative to propose a given building, group of buildings or sites for classification can come from anyone, although local authorities are expected to be the main actor. The local authorities will also be responsible for classification procedures if buildings or sites are considered to be of only local interest, even if the regional services of the Secretary of State for Culture have to be heard.

The overall goal of the *environment* policy, is naturally to promote sustainable development. The design and the management of environmental policy is largely the responsibility of the Ministry of the Environment and Natural Resources but does require the co-operation and often the initiatives of local authorities. The part of the policy dealing with development pressures in ecologically sensitive areas includes establishing of a network of protected areas, some designated as of 'national interest', others of 'regional or local' interest. Those of 'national interest' consists of *Parques Nacionais* (national parks), *Parques Naturais* (natural parks), *Reservas Naturais* (natural reserves) and *Monumentos Naturais* (natural monuments). In the case of the three first types a land-use plan and the respective regulations are required. The plan, once approved, will be published in the Official Journal as a Regulatory Decree. In the protected areas of regional and local interest, the plan and its regulation will have the status of a detailed plan. The proposal of classification may come from authorities, associations or private or public institutions. The proposal is submitted to the Institute for Nature Conservation which assesses its justification and then submit a designation to the Ministry of Environment and Natural Resources. The classification as a protected area is preceded by a public enquiry and consultation with the relevant municipalities and Ministries. The Institute for Nature Conservation has then to prepare a land-use plan and to organise another public enquiry before the final approval. The national parks, the natural parks and the natural reserves are managed by a Directive

Commission supported by a Consultative Council. The protected areas of regional or local interest are managed by the local municipalities or by an association of municipalities.

Other types of protected areas are those defined by *Reserva Ecológica Nacional*, *REN* (National Ecological Reserve) and *Reserva Agrícola Nacional*, *RAN* (National Agricultural Reserve). The *REN* is intended to protect areas which have specific ecological characteristics. It includes coastal zones, areas adjacent to rivers, interior waters, areas of maximum infiltration and areas of steep slopes. In these areas it excludes urban development initiatives, buildings, roads and other infrastructural works which may destroy the top layer of land. Proposals for the geographical definition of *REN* are prepared by the Regional Directorates of the Environment and Natural Resources. The municipalities are necessarily consulted in the process. The licensing system over development initiatives which fall within the *REN* is accompanied by the National Commission for the *REN*, consisting of members representing several Ministries and the Association of the Portuguese Municipalities. This commission has inter alia the responsibility to define broad guidelines, to issue its view on both the proposals for geographic definition of the *REN* and the appeals submitted to them.

The aim of the National Agricultural Reserve Law 1989 is to prevent the (urban) occupation of the soils considered of high suitability for agriculture. It establishes conditions for the licensing of all non-agricultural activities in good agricultural land. The classification of soil suitability and, consequently, the geographical definition of the reserve is the responsibility of the Ministry of Agriculture. The administration of the licensing system within the *RAN* is the responsibility of the Regional Commissions for the Agricultural Reserve while the National Council for the Agricultural Reserve sets the broad guidelines for the administration and management and also judges appeals of decisions taken by the regional commissions. The *RAN* imposes severe restrictions on non-agricultural uses of good quality agricultural land. The law also establishes the 'preferential buying right' over neighbouring property for owners of land classified under the *RAN* as well as giving a privileged status in what constitutes agricultural development projects. The geographical definition of both the *REN* and the *RAN* is compulsory in all spatial plans.

For the *coastal zone*, defined as a strip of land adjacent to either coastal sea waters or interior waters, special physical plans may be established, *Planos de Ordenamento de Orla Costeira*. They define use conditions, access restrictions and dominant land uses as well as the location of the main infrastructures. The plans are erected by the Water Institute, which submits them to the Ministry of the Environment and Natural Resources to be approved. The plans promote an adequate zoning of uses and activities, qualify beaches and regulates their uses, protect and enhance those beaches considered as strategic from an environmental or touristic perspective and contribute in general to nature protection and conservation. The plans have a binding character and should be compatible with other regional or municipal plans.

Spain

1. Administrative structure

The constitutional monarchy of Spain was earlier a unitary and centralised State. This was changed by the 1978 Constitution. The provisions of the Constitution with the respect to the formation of a decentralised State are fundamental. They recognised the right to autonomy of the nationalities and regions which make up Spain and defined the powers which can be assumed by the autonomous communities.

Autonomous communities, 17 in all, are administrations with full political and administrative capacity, and, within the realms of their own competence, they can enact laws and exercise juridical control. Still certain subjects, however, lies within the exclusive competence of the national State, as for example the foundation and co-ordination of general planning of economic activity, basic legislation on the protection of environment and all legislation which refers to public works and infrastructure affecting more than one autonomous community. The country is further subdivided in 52 provinces and more than eight thousand communities, varying in size from 100 inhabitants up to more than a million.

At the *national* level the legislative power resides in the *Cortes Generales* (National Parliament) while the executive power resides in the national Government. Planning at national level falls directly within the competence of the *Ministerio de Obras Públicas, Transportes y Medio ambiente, Moptma* (Ministry of Public Works, Transport and the Environment), which is involved in issues concerning housing, environment, territorial policy and public works. Other ministries whose activities might have some impact include the Ministries of Public Administration, of Economics and Finance, of Agriculture, Fisheries and Foods and of Industry, Trade and Tourism. There exists further a government-owned corporation dedicated to the planning and management of land at a national level, the *Sociedad Estatal para el Equipamiento de Suelo, SEPES*.

At the *regional* level the 17 autonomous communities have each their own government and departments. Their characters are similar to those of the ministries mentioned earlier. There is a delegate from central government in each autonomous community. The corresponding Department of Public Works or Land Planning of the communities includes a Territorial Development Committee which is responsible for the first approval of all municipal land planning instruments. In some of the communities there have also been established specific institutes to act as the public developer of land. There are further local governments in the provinces

Municipal governments are based on elected councils, presided over by mayors with support of several committees. Land Planning Committee are especially important for spatial planning.

The relationship between the various levels of government usually takes place by means of consultations between the corresponding departments who have relevant competence for the matter in question.

2. Legal development

Considerable change has taken place in the planning law since the 19th century when the first planning law, *Leyes de Ensanche y Mejora*, aimed to improve the population centres. Since then, many different laws embodying different concepts of planning have been introduced. Also over many years, responsibility for planning has gradually been decentralised, and it now resides almost completely within the powers and competencies of local authorities. The Spanish planning system has not least been influenced by the political and administrative configuration resulting from approval of the 1978 Constitution.

The first *Ley del Suelo* (National Land-use Planning Law), passed in 1956, had little impact because in Spain there was no tradition of national planning.. Previous laws were not of a general character. In 1975 a new *Ley del Suelo* was passed, imposing the duty on any municipal council to adopt a town plan for any built area.. The town plan was to be submitted for the approval of the *Comision Provincial de Urbanismo*. During the 1980s a considerable number of town plans were either adapted to the Law or newly enacted. This planning was only aimed at regulation in the towns, forgetting in most cases the proper regulation of undeveloped land. A planning Law reform was passed in 1990, while a recast text of that law was passed in 1992. It coexists with several other laws enacted by autonomous communities. The current framework legislation is now *Texto Refundido de la Ley sobre el Régimen de Suelo y Ordenación Urbana*. Of importance for spatial planning are also sectoral laws such as *Ley de Espacios Naturales Protegidos* (national law for protected natural spaces), *Ley de Ordenación de los Transportes Terrestres* (national law on transport) and *Ley de Patrimonio* (national law on heritage).

As a result of the approval of the 1978 Constitution, national law contains articles with three different levels of applicability: those with *full* application, including regulations of those matters that fall within the exclusive competence of the State, those of *basic* application, corresponding to matters of shared competence where the autonomous community may pass its own laws provided that these do not contravene the national law and those of *supplementary* application, corresponding to those matters falling within the competence of the autonomous commune but where, in the absence of specific regional legislation, they may use national law as supplementary law.

The key feature of the planning system in Spain is the obligation for local municipal authorities to establish, adopt and revise structure planning and land-use regulations and ordinances which should totally cover their respective areas. Regional planning is not obligatory. The main objective of the Spanish Planning Act is to ensure a proper use of the territory, contributing to the protection of the country's nature and environment, so that sustainable development of the society with respect to people's living conditions is secured. The basic element of the planning system is the division of the country into three types of land: urban land, developable land and undevelopable land.

3. Spatial planning structure

Provisions concerning a *Plan Nationale* were brought together in the *Texto Refundido de 1992*, TR 92. But a complete national plan has not yet been drawn up. The national

instrument with the broadest scope in the planning or organisation of the national territory is so far the *Plan Director de Infraestructure*, though this is not a planning instrument inscribed in law. Besides a national plan, the national Government can influence and guide spatial planning by guidelines, laws and rules which are obligatory throughout the State and by general aspects of policy concerning development, infrastructure, territorial planning and environment as well as by major guidelines for housing policy.

At the *regional* level there may be complementary laws and guidelines concerning planning matters but also more specific directives for spatial planning, *Planes Directores Territoriales de Coordinación* (Territorial Co-ordination Plans). For this purpose, a map indicating the broad geographical distribution of uses and activities should be prepared. This should indicate areas which must be subject to limitations or specific protection, whether for reasons of defence or conservation of the environment and resources or the protection of historical heritage, etc. The identification and location of basic infrastructure, communications, water supply, drainage, energy supply, etc. is also fundamental in these types of plans. The drawing up of such instruments is very convenient from the point of view of adjusting the regional economic plan to the physical planning of the territory. But there are few documents of this type which are finally approved.

At the *municipal* level there exist different types of plans or norms as *Planes Generales*, *Normas Subsidiarias* or *Proyectos de Delimitación de Suelo Urbano* (General Plans, Subsidiary Norms or Urban Delimitations Projects). The obligation established in the Land Planning Law 1976 that any municipality in Spain should have a planning instrument of the general type has meant that these instruments, and particularly *Planes Generales*, have become the framework design of most of Spain's important cities.

It is up to the local authority to adopt a resolution for drawing up a *Plan General* or other general planning instruments. In the case where these plans cover more than one municipal district, a situation which is permitted by law, the competent body for the autonomous community, at the request of the local authorities or through its own initiative, may order the preparation of a joint plan. The fundamental objective of *Plan General* is to plan the totality of the municipality. For this purpose, the land contained within the municipality is normally classified in up to five types: urban, developable or capable of urbanisation in its two categories of programmed and non-programmed, and undevelopable or not capable of urbanisation in its two categories of normally and specially protected (figure 20). With respect to urban land, the objective is to make a fully detailed plan, fixing uses and intensities of use, alignments, levelling and further delimit areas which are the subject of protection. With respect to land capable of urbanisation, it should reflect the fundamental elements of the zone, regulate uses and intensities and fix development programmes. With respect to land not capable of urbanisation, it should fix those measures required to preserve this land from urban development and for the protection of the zone and countryside. The *Plan General* also fixes building specifications in each of the zones as density, height, typology, etc.

Normas Complementarias (complementary norms) regulate those aspects which are not provided for or developed in the plan. They can never amend the classification of land nor alter the plan. *Normas Subsidiarias* (subsidiary norms) can have two different objectives:



Figure 20. Part of Plan General, Valencia

- either to establish a normative of general character for the totally or part of the province, affecting any municipality where no *Plan General* or Subsidiary Rules of a municipal character exist,
- or to define urban planning zones of those municipalities which do not have a *Plan General*.

The adoption of a resolution for the drawing up one of these *Normas*, their scope and contents rests with the local authority or provincial corporation, depending upon the type of *Normas* in question.

In those municipalities which lack the obligatory general type planning instrument *Proyectos de Delimitación de Suelo Urbano* (urban land delimitation projects) can be drawn up. The fundamental objective is to limit the possibility for development. The land which remains outside the perimeter classified as urban will not be capable of urbanisation.

The above mentioned planning instruments have a more general character. A *PAU* indicates that sector of non-programmed land, which is capable of urbanisation or developable and where more detailed planning is needed. The objectives of this document are to draw up a general system of infrastructure for this land, to indicate uses and levels of intensity, fix the development guidelines within the area and, if it is considered necessary, divide the zone into its development by stages.

Where development is desired in a sector of land where, in the programming of the plan, no provision has yet been made for its entry in the market, then a *Plan Parcial* (detailed plan) will have to be drawn up. This can be made either on the basis of private initiative or by the local authority. Because of the immediately applicable character, the possibility of amending these plans is not usually considered.

For special purposes *Planes Especiales* may be used. These plans serve to develop both the provisions contained in the *Planes Territoriales* and the *Planes Generales*. Consequently, the geographical coverage differs according to their objectives. Plans which develop the provisions contained in the *Planes Territoriales* consider the development of the basic communication infrastructure or the planning of historical artistic sites, protection of the countryside, rural environment, etc. Plans which develop *Planes Generales* etc. consider similar things in a municipal connection while *Planes Especiales* without connection to any existing plan consider the establishment and co-ordination of basic communication infrastructure, facilities, supply, drainage etc., always assuming that prior definition of a territorial model is not necessary, and also the protection, listing, conservation and improvement of natural spaces, of the countryside and the physical rural environment, of the urban environment and of communication routes. These planning instruments have allowed for the conservation of a large part of the historical-artistic heritage of Spain's cities. These plans also contribute high levels of passive protection by impeding the execution of specific activities or demolitions. High numbers of listed buildings are protected under these instruments. However they do not provide funds or other measures which contribute to the active protection.

The above-mentioned detailed planning instruments give private initiative the greatest possibility of collaboration with the administration in drafting planning proposals. They can be formulated upon either private or local authority initiative.

There also exist other types of detailed planning instruments. An *Estudio de Detalle* (detailed study) covers normally a sector of urban land which already is subject to a plan. It can never alter the basic parameters of the approved planning instruments. The objectives are the definition of alignments and levelling and/or the planning of volumes. The instrument is used quite frequently where the developers prefer a design different from those contained in the approved plan. This type of planning is normally the result of private initiative.

Proyectos de Urbanización (urbanisation projects) are not planning instruments as such but rather construction projects. Nevertheless, the law includes them within the schemes of activities to be controlled and developed within the schemes of planning systems. The coverage is that sector of land capable of urbanisation or of urban land which requires to be serviced in order to be considered as a 'plot'. The fundamental objective is thus to put the general planning objectives into practice and to develop *Planes Parciales*.

The provisions concerning *Catálogos* (protection by listing) are defined in the

same law as those of other planning instruments. They are not plans as such but they usually form part of them. The coverage is area necessary for protection or the immediate environment and the objective is the protection of those elements contained in the *Catálogo* (buildings, monuments, gardens, countryside, etc.).

4. Process

The *regional* planning instruments will be drawn up by the competent bodies within the corresponding autonomous communities, who may contract the work out to external teams, with the proviso that this work is followed up by the relevant technical services of the community. The mechanisms for controlling and approving the territorial or regional planning instruments are specified in the relevant obligatory autonomous laws. Effective control or follow up mechanisms for this type of planning instrument do, however, still not exist in praxis.

At the local level the responsibility for a *Plan General* or other general planning instruments lies on the local authority. This does not mean that it is their technicians who must draft the document but they must always manage this process. A draft is so prepared after relevant surveys and consultations. Once the instrument has been approved by the local authority which has initiated its drafting, it is subject to public consultation for a period of one month, advertised through the appropriate medium. The entity of body which initially approved the plan may then modify it, reflecting any amendments that have resulted from objections or comments raised, before giving it provisional approval. If the amendments are substantial, then a second period of public consultation will be opened for one month, prior to provisional approval. In the case of municipalities which are provincial capitals or have a population of more than 50 000, reports will then be sought both from the provincial council and the autonomous government. This reports are considered favourable if they are not issued within one month. The plan and the complete file of documentation is then submitted to the competent body of the autonomous community, which must give the final approval. When a joint document covering more than one municipality is prepared, the initial and provisional approval is given by the provincial council and the final approval by the competent autonomous body.

The life of the general plans is indefinite as with any other plan in Spain. Changes to the contents can be made reviewing the plan or by amending some of the elements which make it up. A review supposes the adoption of new criteria with respect to the general and organic structure of the zone or the classification of the land. The review may result in a substitution of the current planning instrument. In the other cases, changes of details in the plan can be treated as amendments.

The procedure for the production of the *PAU* is similar to that for general type planning instruments.

A *Plan Parcial* can be formulated upon either private or local authority initiative. When a draft is prepared and approved by the local authority it is made available for one month's public consultation. When it has been drawn up at the basis on public initiative, then the time period to grant or to refuse initial approval of the document shall be three months. Following the period of public consultation, the local authority will give its provisional approval, reflecting any amendments that have resulted from consideration of the objections raised during the public consultation. If the amendments

are substantial, then a new public consultation of one month will be held prior to the provisional approval. In the case of municipalities which are also provincial capitals or have a population of more than 50 000, approval rests with the local authority, which must have previously requested a non-binding report from the competent autonomous body. For other municipalities, the final approval rests with the autonomous community.

In the case of *Planes Especiales* which develop the specifications of a *Plan Territorial*, the administrative process for these documents will be the same as for general type planning instruments, whilst the procedures for such plans which develop determination of a *Plan General* will be identical to those for *Planes Parciales*.

Estudios de Detalle and Proyectos de Urbanización must be initially approved by the local authority within a period of three months. They are then made the subject of public consultation for 15 days. During this time any presentation of objections will be accepted. Drawing on the received results, the local authority will grant final approval, with pertinent amendments having been made after which immediate implementation is possible.

If a *Catálogo* is linked to any planning instrument, its production and the administrative procedure associated with it will be the same as for corresponding instrument. If it is not connected to any plan, it will face administrative procedures, approval and publication in accordance with the rules established in the *Planes Parciales*.

The appeal mechanism in Spain starts with administrative type appeals. These are heard before the administrative body which passed the resolution in question or before the next higher administrative body. The decisions made at the highest level can be appealed against directly to the Courts of the Contentious-Administrative jurisdiction.

Consulting practices, made up of architects, engineers, economists, lawyers and various other professions with competence in planning matters, such as geographers, biologists, etc. are numerous in Spain. The normal system of the development process starts by the contracting of a private consultant by the developer/private investor, both for advice on a specific matter, or to carry out specific work (plan or project). Normally, the private consultant gets in touch with the experts in the administration, in order to obtain permission to carry out the work. With enquiries to the various departments of the administration who are associated or have competence over the matter and the various public consultation procedures having been dealt with, the administration through the corresponding political committee will give the approval to finish the work. The Spanish planning system allows for public participation at all stages of planning. In the great majority of cases it is the administration itself which asks the affected groups (residents, associations, professional bodies, etc.) so that they can express their opinion in the pre-drafting stage.

5. Legal status

The Spanish planning system has traditionally been very rigid, locally based on the design of planning instruments of a general character such as *Plan General*. They totally define urban land with respect to use and permitted intensities of use, alignments and levelling, and where for developable land or land capable of urbanisation the instrument fixes both its quantity (constructable square metres over each

square metre of land), its permitted uses and the infrastructure. The system is based on the principle of framework control. Plans at lower level must not contradict planning decisions at a higher level. When there is a development proposal which is not in line with the plan, the plan itself has to be changed prior to implementation. The outcome of the planning process, in theory, should be that specified in the plan, because departures from the plan are not possible. But should the administration receive indications from landowners or land promoters of development proposals, the plan can be changed either by a modification or revision. The possibility also exists for the reclassification of specific areas of land.

To introduce activities or development not included in current plan, a document called the *Corvenio Urbanistico* (development agreement) has been designed as a convention between the developer and the administration. It reflects, together with the characteristics of the new activity, the obligations which the developer acquires from the administration in order to compensate the local authority for the need to amend the plan. These obligations can take various forms, such as the assignment of land, the execution of specific infrastructure works, economic compensation in various forms, etc.

6. Implementation and control

One way to secure implementation is public ownership of the land in question. In Spain there is a policy for the formation of *Patrimonio Municipal de Suelo* (municipal land banks) which is reflected in the current land law, which obliges local authorities of each provincial capital and local authorities with more than 50 000 inhabitants to the measure of allocating 5 % of their ordinary budget to the formation of municipal land banks. The law also allows for the incorporation in the municipal land bank of land classified as non-programmed developable or of undevelopable land. This may establish the need to occupy the land by compulsory purchase for the constructing of housing under some subsidised regime or to other uses of social interest in the future.

One of the documents included in the *Plan General* is the *Programa de Actuación Urbanística, PAU* (action program), which programmes the operations to be carried out in the first two four-year periods of the life of the plan. This should be revised every four years. If the owners of the affected land do not comply with the specified time conditions, they can be substituted in the management process, with the administration acting as a subsidiary executor. In the case of compulsory purchase for non-compliance with the time periods for carrying out works as indicated in the plan, the owners may suffer a reduction in the value of their land of up to 50 % of what they would have obtained, if the development had been completed within the time period as fixed.

Starting from the case with the existence of a general type planning instrument and the aim of building on land which is classified in the plan as non-programmed developable land, the sequence of events will be:

- the granting of final approval and awarding of the contract under the open competition of the *PAU* ensures the land in question becoming programmed, drafting and final approval of the *Plan Parcial* and, as appropriate, of the *Estudio de Detaile*. This grants the right to develop, though this right is lost if the time periods fixed in the plan or in the corresponding regional legislation are exceeded;

- application of the management system provides for the compliance with the time periods for the assignment of public equipment and facilities, distribution of charges and benefits between the affected owners, and development within the fixed time period.

The management system used for the implementation may be private, public or in partnership. In case of private management, the choice of system for development of some pieces of land may be established by the plan or it may be adopted at the request of the owners, when a *Unidad de Ejecución* (execution unit) is defined. If several owners are involved a *Sistema de Compensación* (compensation system) may be established. In order to do this, owners of the land in question who represent at least 60 % of the surface area of the unit must reach an agreement and initiate the formation of the *Junta de Compensación* (compensation board). It is obligatory for all the owners who have land within the unit to join the board, otherwise the land may be subject to compulsory purchase by the administration on behalf of the board. In order to proceed with urbanisation work the compensation board may dispose of economic resources of its members and the land to be urbanised. This may be used as part of the payment to the development company contracted to carry out the work.

The aims of the compensation system are to carry out the distribution of benefits and charges within the unit and to carry out the necessary urbanisation works linked to the development of that unit, so that the building on the resultant plots can be started. Within the area the mean returns is calculated in m² of land capable of being used for construction. All the landowners included in this area have the right to 85 % of this average urban profit, while administration bodies have the right to 15 %. which may be paid in land or otherwise. Criteria for awarding the urban properties created in the development transformation operation will so be established.

Public management of the development includes the acquisition of land through the mechanism of assigning 15 % of the use value or the formation of a public stock of land through compulsory purchase. This can be done in order to provide systems of infrastructure or facilities for special cases, for the increase of the municipal land bank, in order to obtain land which, in the plan, is destined for the construction of subsidised housing or as a consequence of non-compliance with the role agreed in the plan for the property. This system will be used, primarily, as a penalty mechanism for non-compliance with the time period fixed for the execution of specific units or for the acquisition of rights as established in the plan.

Partnership management can be established by *Sistema de Cooperación* (cooperation system). Its scope is identical to that described above in the compensation system and is either determined by the plan or it can be adopted on the request of the administration. The distribution of benefits and charges linked to the implementation is carried out through drafting of a project, known as the *Proyecto de Reparcelación* (division into plots project). It also serves to transform all those pieces of land that landowners have to hand over to the municipality for roads, parks, facilities etc. into public property. The administration will initiate the action and will also carry out any urbanisation work at the expense of the owners. The cost of urbanisation will be divided according to the percentage of land that each owner holds after the division of the site into plots. Payment of the urbanisation work may also take the form of plots resulting from land transformation.

Prior to any building works a granting of *Licencia de Edificación* (building permit)

is necessary. Even so-called lesser works (such as the demolition of a partitioning wall or changing the kitchen or bathroom fittings) needs such a permit. However, in many cases, such permits are only obtained in an a posteriori manner where some form of inspection has discovered that such work has been carried out. A permit has the form and effect of a legal document which gives building permission but also obliges the developer to comply with what is specified both in the current plan and ordinances, and the payment of the appropriate fee. The duration of the authorisation depends upon nature of the work to be done and is specified in the permit.

The normal content of any application for a permit includes the developer, the experts who have drawn up and will supervise the work, type of work, budget, the constructor, the estimated time and the amount of fees and taxes to be paid in advance. Once the application has been entered, it will be sent to the corresponding expert service who will report whether the application corresponds to the provisions specified in the appropriate plans and ordinances. The report is sent to the planning committee of the local authority who must pass a resolution granting or refusing permission, in which last case it must be justified. The application is finally ratified by a full session of the local council. No compensation is given for the refusal of a permit. There are few conditions linked to the granting of a permit apart from compliance with time periods for execution and the simultaneous completion of urbanisation works. In the case of a protected building, the permit may specify the type of activity to be carried out. The only agreement that does exist is in the case where the land has not previously been urbanised. Here there is a formalised agreement for the simultaneous urbanisation and of payment of a guaranteed amount necessary to cover the urbanisation works linked to the development. Appeals are possible against administrative actions, based on their illegality, and may be considered in the first place by the body who made the decision, then by the administrative body hierarchically superior and finally brought forward to the Court of Contentious-Administrative jurisdiction.

Apart from the main permit which covers all types of works including new buildings, changes to the structure or external aspects of existing buildings and the demolition of buildings there are other activities which need prior permission such as urban division into plots, the movement of land, the first use of buildings and changes to the use. A permit is not only required to construct or to rehabilitate buildings but also a further permit is required, called *Licencia de Ocupación* (occupation permit). This is granted once the work has passed the corresponding inspection and once compliance with all the conditions imposed in the initial permit has been verified.

Above, legal conditions for development have been specified. In Spain, however, there has been a long tradition of creating settlements on undevelopable land, fundamentally because of the lower price of this land. This type of activity has often had the tacit consent of politicians and, sometimes, the administration. Especially, two types of settlement have sprung up on this type of land, or indeed in rural land: one is residential in character, often associated with second homes, and the other is associated with industrial use, particularly on rural land. Despite both the current and earlier laws declaring these works illegal and ordering their demolition, this has seldom been adopted, mainly because of the limited political attraction that the passing of a demolition order has for the local authority. Therefore, the planning response to the problem, which arose mainly in the 1960s and 1970s, has been provided in the plans drafted later, which often have tried to legalise these situations. Today, both the

national law and current legislation in each of the autonomous communities is much more demanding in respect to unauthorised development.

7. Renewal, heritage, environment

Urban regeneration activities in Spain are undertaken on the basis of the plans approved by the local authorities. In some cases, given the scale, these also require the economic collaboration of central and regional government. Overall, no specific agencies or mechanisms exist to carry out this type of activity. Normally, these operations are designed and structured through the drafting of a *Plan Especial de Reforma Interior* (Special Inner Reform Plan). The support of the local administration is required, because these changes normally require compulsory purchase of land, buildings and in some cases the relocation of the affected population.

National rules concerning *protection of historical buildings and monuments* are contained in *Ley 1985 del Patrimonio*, which is in force in those autonomous communities which do not have their own legislation. The fundamental document, together with the Protection Rules, is the listing of the land and buildings which are declared to be of cultural interest. In order to be effective, the law establishes the following measures:

- preferential access to official credit;
- for each item of public works with a budget higher than ESP 100 million, at least 1 % of the funds will be provided from central government to finance the conservation or enrichment of the historical heritage;
- various tax exemptions which require the expressed declaration of the building in question.

The main problem in applying the law have been the high demands made by the owners and the fact that the inclusion of a building in a group or its inclusion in a listing of either a local or municipal character is not a sufficient reason for granting tax benefits.

Spain has the highest number of cities which belong to the World Heritage in Europe. In practice, the common approach to protection has been drafting of corresponding plans. In Spain's historical centres, therefore, there exist in general good passive protection (prohibitions of doings or acting) but bad active protection (an absence of incentives measures, of control, a high number of abandoned ruins, etc.).

Concerning *countryside conservation* Spain was one of the pioneering countries in the creation of national parks and introduced a law enabling such already 1916. The process continued with the *Ley de Espacios Naturales Protegidos* of 1975 which provided the basic source of protection for national parks or integral reserves and the *Ley del Suelo* of 1975 which is more comprehensive and protects areas of interest, which are classified as protected undevelopable land and on which any urban activity is strictly forbidden. The first law provides also for a hierarchical system whereby areas of national interest can be designated as national parks and where they are of regional interest as natural parks. A large number of areas have been classified as natural parks with different types of protection, such as areas for scientific, integral or biosphere reserves which only may be used for scientific and educational purposes, areas which can be used for both educational and recreational purposes and natural areas which allow controlled exploitation as well as use for recreational and leisure purposes. At

present there are around 500 designated areas covering about 5 % of the total area of Spain. A problem common to the protected areas is, however, the lack of active conservation and a lack of human and economic resources for control and surveillance.

Coastal area planning is a component of the general planning of the municipality and must follow provisions derived from the national law *Ley de Costas*. This has proved to be an effective mechanism relating to use of land on the coast. A national *Plan de Costas* has also been drafted with the main aims to regenerate or restore those coastal areas which have suffered damage, to promote activities which improve the environmental quality and to carry out prevention and protective activities designed to control erosion and damage to the coast. However, there have earlier to a large extent been a general lack of protection of the coast, reflecting a delayed awareness of the problem both by society and the administration. Still, there are considerable conflicts in many coastal areas between urban use, basically holiday homes, infrastructure and the need for protection. In addition, these areas are often subjected to pressures of leisure demands by the great masses of population from nearby metropolitan areas.

All these kinds of protection and conservation influence of course land use planning in *rural* areas. Physical planning in these areas is mostly directed against protection, preservation and infrastructural network. Economical planning is of greater importance. Not least in mountainous areas regional economic support, partly from EU means, has had considerable effect. A type of planning and implementation which in later time has gained in importance, is land consolidation. Earlier, the activities in this respect were low, but now Spain is one of the countries with the largest area of consolidation measures, including land reallocation and establishing of improved farm infrastructure.

Sweden

1. Administrative structure

Sweden is a constitutional monarchy. At a national level it is governed by the *Riksdag* (Parliament) which enacts laws and determines national taxation and budgets, and the *Regering* (Government) which is the planning, initiating and executive organ of the State. To support the administration there is a number of other central authorities, each responsible for a special sector of the society. The *Regering* can give general instructions concerning the policies and activities of such authorities, but according to the constitution their decisions in individual cases must not be influenced. In this meaning they are independent from the *Regering*.

At the national level, the Ministry of the Environment is of primary importance in the spatial planning context. It is responsible for legal proposals and for directions concerning planning and to some degree for fund allocation. The Ministry has a limited staff but is supported by some central authorities which have close connections to spatial planning, development and environmental matters. Thus, the *Boverket* (National Board of Housing, Building and Planning) is the main authority in the field of physical planning and building. Its main objectives are to develop good planning methods, investigate how planning and development are handled in practical life, whether proper consideration is given to the environment and preservation, to study problems in the implementation of relevant acts and to propose appropriate actions. It is also a duty of the Board to develop technical demands and rules for buildings and co-ordinate them with European rules. Other important central authorities in this connection are the *Naturvårdsverket* (Swedish Environmental Protection Agency), the *Riksantikvarie-ämbetet* (Board of National Antiquities) and the *Vägverket* (National Road Administration).

At the regional level, the country is subdivided in 21 *län* (counties), each headed by a State county administration (*Länstyrelse*, *Lst*) and an elected county council (*Lands-ting*). To *Lsts* are connected representatives of many of the central State authorities. *Lsts* have an autonomous status and the *Regering* is not allowed to influence their decisions in individual cases. Within the national legal framework they are allowed to adopt regulations valid for the county and also to serve as administrative courts in most appeal cases concerning decisions of local authorities. Their main objectives and responsibilities are to advise, supervise and control municipalities, to co-ordinate State activities within different sectors and to promote county development with economic and other means. A *Lst* is headed by a *landshövding* (county governor), a State official appointed by the *Regering*. At his side he has a board of members appointed by the county council.

The *Landstinget* (county council) is mainly responsible for public health service and some other regional important matters, such as part of county transports, stimulation of tourism, support of small enterprises, etc. Some are also engaged in regional spatial and economic planning.

At a local level, Sweden is divided into 289 *kommuner* (municipalities). Until 1952

there were more than 2600, but those were merged into larger units in two stages in order to create viable units around a municipal centre. They are governed by municipal councils elected by the inhabitants. The councils set up executive boards and subordinate, politically controlled committees, to which certain decision-making powers are delegated. Municipalities are to a considerable degree independent. As the county councils the municipal councils have right to levy income taxes (most of all income taxes goes to the municipalities). Most spatial planning in Sweden is handled by the municipalities. They are further responsible for primary and secondary education, for caring service, fire service, sanitary, energy planning, etc. as well as building and maintaining streets, parks, water and sewerage works in urban areas. They have also right to charge for their investments and for running the municipal services. The strong decentralisation of public administration in Sweden - not least concerning spatial development - depends to a great deal on the broad income base of the municipalities.

2. Legal development

Modern spatial planning in Sweden has its base in early urban legislation. Thus, the law of 1734 included rules on the orderly regulation of sites and streets. It also stated that if large parts of the town were destroyed by fire, a town plan for rebuilding should be prepared. The building regulations of 1874 gave more detailed rules. One of the main objectives was to diminish the risks of fires and, at the same time, give better living conditions. The regulations therefore stated the need for broader streets and open places to provide more light, air and variety. The Town Planning Act of 1907 gave greater legal validity to planning regulations and the right of communities to expropriate land for streets and public places. To a certain degree, landowners had to contribute to the implementation of town plans. The plans were essentially legally binding for subsequent *bygglov* (building permits). Development in the countryside was largely free from control. The 1931 Town Planning Act had much of the same character. The 1947 Building Act changed this situation. Development was no longer more or less a right for the landowner. In principle, dense development which needed common road and water systems was allowed only after detailed planning, undertaken where and when it was found suitable from the perspective of the public interest.

From the early 1970s, public power became still more pronounced. At a national level, physical planning identified areas of national interest which ought to be protected, and the earlier right to build scattered or small group of houses in the countryside was no longer recognised. Such development had to be approved by the planning authorities. The municipalities were given a strong position. A *detaljplan* (detailed plan) could only be adopted after it had been approved by the municipality. The municipalities were given responsibility to secure the supply of dwellings. At the regional level economic planning and support for new establishments in industrial weak areas were introduced. To further strengthen regional development, many of the central public authorities had to move out from Stockholm to other regions.

Planning legislation was completely revised in 1987. The *Naturresurslagen*, a new Act on the management of natural resources gave prescriptions of proper land use and good management. The Act stipulated in general terms the types of land and water zones which should be protected as far as possible. It also indicated areas suitable for

industrial use or energy production, water provision, etc. Zones defined as 'national interests' were given a special protection and 'geographic guidelines' were given for certain specified coasts, mountains, rivers and lakes. Its regulations were also steering principles for a series of new laws including the *Plan- och Bygglagen*, *PBL* (Planning and Building Act 1987). This replaced the earlier building act and is the main act within the spatial planning system. The system is decentralised and puts the main responsibility on the municipalities.

Of great importance for spatial planning is further the *Miljölagen* (the Law of Environment 1998), which unifies a series of earlier laws - including the *Naturresurslagen* - concerning use of natural resources, nature protection, prevention of pollution, permits and control of environmentally disturbing enterprises, etc. It gives considerable weight to the consideration to environment in planning.

3. Spatial planning structure

There is no formal spatial planning institute at the *national level*, only investigations, proposals, laws and directives, which give a framework for the actual planning. But the delimitation of areas of national interest and the geographical guidelines now inscribed in the environmental act are to a great extent the result of planning activities at a national level during the 1970s, a comprehensive form of *fysisk riksplanering* (national spatial planning). Its original aim was a closer control of the location of heavy industries with great environmental impact. It turned out to be mainly an inventory of areas of national value from recreational, natural, landscape, cultural and agricultural viewpoints which therefore needed a special protection.

According to the main spatial planning and building act (*PBL*), the following kinds of spatial plans are formally regulated.

The *Regionplan* (regional plan) may be adopted, if matters concerning the use of land and water areas in several municipalities require joint studies. The *Regering* may appoint a regional planning body which will be responsible for regional planning within the specified municipalities. A formal plan, a *regionplan* can then be worked out which may serve as a basis for decisions concerning sector and municipal plans. It may suggest principles for the use of land and water areas as well as guiding principles for the location of development and infrastructure (figure 21). So far, the instrument of regional spatial planning has not been much used. Regional bodies have been established mainly around the biggest cities.

Regional planning outside *PBL* includes sector plans of different types (railway plans, road plans, traffic plans, location of hospital, etc.) and a certain economic planning to stimulate enterprises and municipalities. Health care and certain other planning objects are a responsibility of the county council, while economic planning is a duty of the State authority *Lst*, which has a special department for regional development. It is left to the *Lst* itself to structure this activity. The plans and programmes have no legal status. In general it might be said that formal regional spatial planning is not much developed in Sweden so far.

The main spatial planning is done at a *municipal level*. An *översiktsplan*, *ÖP* (municipal comprehensive plan) must, according to *PBL*, be adopted in each municipality for its whole area. It should be revised every 5th year. Among other things it accounts for how national interests will be considered at the local level. The plan will

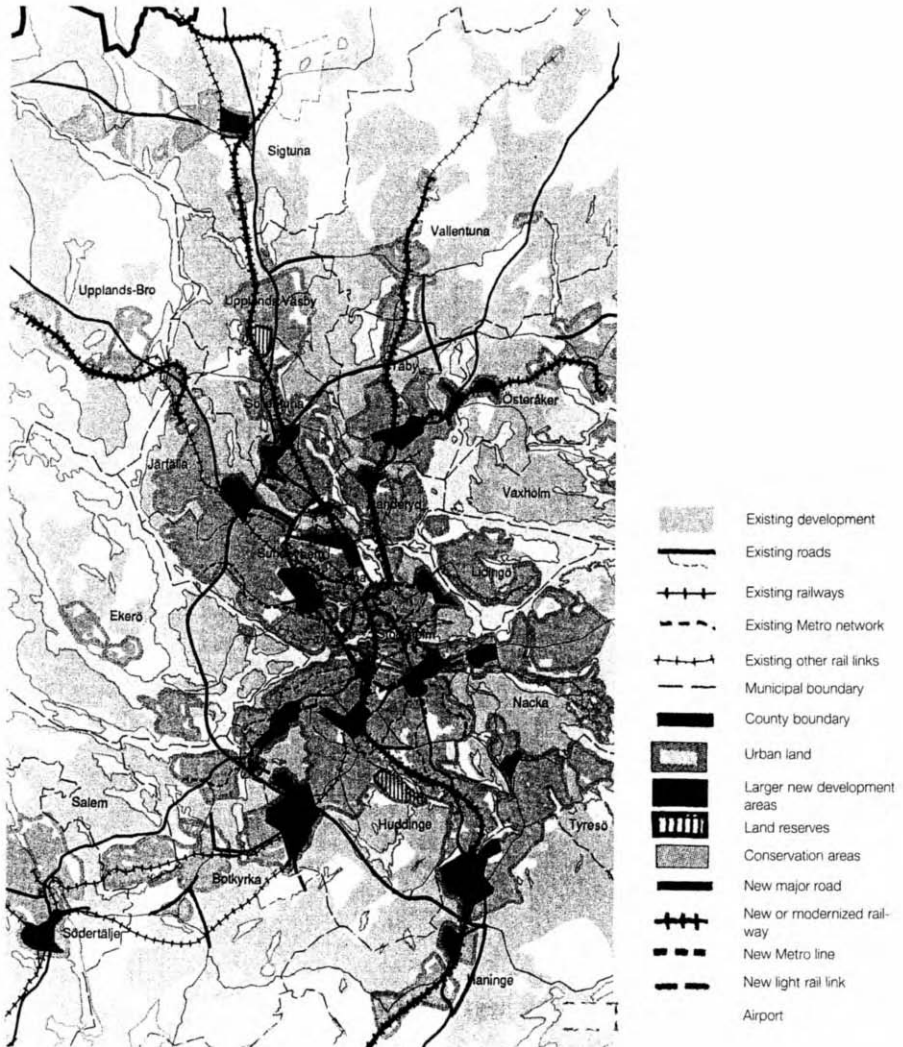


Figure 21. Outline of the regional plan of the Stockholm region

thus form a document of agreement between State and municipality in these respects. Within this frame, the municipality will be more or less independent in spatial planning. The ÖP also indicates the main ways in which land and water areas are to be utilised and how spatial development should take place and thus gives the guidelines for a more detailed planning.

Detaljplaner (detailed development plans) are adopted for limited parts of a municipality, where major development or other reasons make such plans necessary. They are according to the law needed in the following cases:

- a) new continuous development, normally requiring communal roads, water and sewage;
- b) new individual buildings with significant impact on surroundings or located in an area with considerable demand for building sites, provided that the question cannot be examined in connection with building permit;
- c) if development of existing buildings must be regulated in one connection and comprehensive control is required.

A *detaljplan* must at least indicate the boundaries and land use of:

- 1. public areas such as streets, roads, squares and parks;
- 2. areas of buildings, sports, recreational facilities, installations for traffic, water supply, sewerage, energy provisions, etc.;
- 3. water areas used for small-boat harbours, outdoor swimming, etc.

Further regulations are possible, for example for building heights, positioning, shape, etc. The plan will normally consist of a map and a special document with regulations.

For limited areas not covered by a detailed plan *områdesbestämmelser* (area regulations) can be adopted. They may be used to control i.a. the main features of the use of the land and water areas for buildings or for leisure facilities, the maximum permitted floor area of a vacation cottage, use and design of public open spaces, etc.

Most of the spatial planning decisions according to *PBL* are thus taken at the municipal level. It is the politically elected municipal council and their executive boards and representatives which give guidelines, determine planning programmes and take the final decisions concerning local planning and development.

For specific sectors there are other types of plan. The Swedish National Road Administration with its regional offices and a number of district offices is responsible for planning, production and maintenance of the public road network, while the Swedish National Rail Administration is responsible for planning and implementation of public railroad projects. The electrical power net-work is established by both the State-owned company Vattenfall and several other power companies. The Environmental Protection Agency (the *Naturvårdsverket*) has the central responsibility for establishing and managing nature protection areas of different kinds. Regional and municipal planning must take into consideration the needs of different authorities and interests within agriculture, forestry, road and traffic planning, environment, etc. At a county level, the *Lst* has the duty to co-ordinate different plans concerning investment in railways, roads and other means of public transport into a common investment plan for traffic within the county. *Lst* also has a special duty to inform and give advice about the relevant policies and plans of other sectors.

4. Process

The production of a formal *regionplan* will include consultation with the regional State authority *Lst* and the municipalities affected. Other parties with an interest in the proposals will also be given opportunities for consultation. When all background investigations have been made and a draft plan is finished it shall be displayed for three months before adoption. Objections must be done in writing and be considered together

with the plan draft. The council of the regional planning body can adopt the plan, perhaps after making some amendments. Appeals are possible against an adoption. The plan needs no formal approval from the *Lst* or the national government. The latter, however, has the possibility to consider, whether a regional plan pays due attention to national interests. If not, it may wholly or partly annul the adoption.

The objectives of the planning body's work are, however, not only to produce a plan. It will also monitor regional issues and produce studies on a continuous basis for the planning of the municipalities and State authorities. One important task is to co-ordinate the different sectoral plans concerning infrastructure and physical and economic development within the established region. The studies and the efforts of co-ordination may be useful and important for policy formulation.

At the municipal level the *ÖP* which as said covers the whole area of the municipality is based on the expected level of development concerning the economy, population, etc. It is therefore appropriate that the production of the plan should include a presentation of the existing situation and a forecast for these aspects of development. Consultations and research as base for the plan are important. When a first draft is produced the municipality therefore must consult the *Lst* and any regional planning body, as well as any other municipality that may be affected by the plan. Others who may have a considerable interest in any of the proposals contained in the plan may also be consulted. The results of the consultations and the amendments which arise as a result of the views expressed have to be presented in a separate consultation report. Before the plan is adopted, the municipality must display the proposals for a period of at least two months. Anybody wishing to make representations about the proposals must do this in writing during the public inspection period. The *Lst* shall, during the inspection period, document its scrutiny stating whether not: (1) the proposals do meet national interest; (2) matters concerning the use of land and water areas which affect two or more municipalities are suitable co-ordinated; (3) development is suitable with regard to the environment and the health of the residents or others or to the need of protection against accidents. The plan can therefore partly be seen as an agreement between national and local interests to give an accepted frame for a continued and rather free municipal detailed planning.

Subsequent to the public inspection period, the municipality will assemble all the comments received and present its proposal. The plan with the amendments to it may then be adopted by the municipal council. Appeals may be lodged only against the formal procedure, not against the content of the plan. The plan has no specified duration but should be periodically revised. For certain areas it can be developed in greater detail, using the same procedure.

For detailed regulation of mostly limited areas *områdesbestämmelser* (area regulations) and *detaljplan* (detail plan) are alternatives and cannot be used simultaneously within an area. The same process is prescribed for their production. The municipality is responsible for the process, but the production should be in consultation with the parties concerned. Formally, it is the municipality which takes the initiative. Also in reality, regulations and most detailed planning has been done by the municipalities, especially plans for new dwellings. In later years, however, there has been a certain tendency to leave over much of the planning work to the developers. Initiatives for leisure houses have also mostly come from a private owner or a professional developer. The same is the case for large industrial or commercial projects.

Normally, first a programme should be adopted, indicating the main points and goals. This programme is important not only as a means to express the policy of the plan but also to express the negotiations between the municipality and the landowner/developer. An environmental impact assessment must also be carried out as a part of the programme for developments with considerable environmental impacts.

When a draft of the regulations or the plan is drawn up, the municipality will consult the *Lst* and other municipalities affected as well as associations, tenants, public bodies, property owners and other private individuals, who have an essential interest in the proposals. Before a plan then is adopted, the municipality will publicly display the planning proposals for a period of at least three weeks. Anyone wishing to make representations must do this in writing during the period of publicity. The municipality must compile all the comments received in this way and present its reactions in a statement. After the municipal council has adopted the plan, this statement or a notice about where it is available will be sent to all those whose comments on the planning proposal have not been taken into consideration. A simplified plan approval procedure may be applied if the proposals are of limited significance, lack public interest and are compatible with the *ÖP*.

After adoption, notice is sent to the *Lst* which, within three weeks, must consider the same three aspects mentioned above concerning the *ÖP*. If the regulations or the plan does not stand this test the *Lst* will annul the decision in its entirety. However, if the municipality agrees, the decision may be annulled only in part. All parties concerned who had submitted written representations which had not been taken into consideration have further the right to appeal within three weeks to the *Lst*. Appeal against its decision is possible to the *Regering*.

The process of planning *major infrastructure* is as a rule similar with other spatial planning. So is for example the public road net co-ordinated at a county level by a steering group with representatives from the *Lst*, the municipalities, the county traffic organisation and the road and railway administrations. The plan will cover several years. A work plan is established for every project. It also includes an environmental impact assessment. Consultations are required with both the affected property owners, the local environment agency as well as other authorities with an essential interest in the project. The draft plan is discussed at a public meeting with the landowners and is publicly displayed with the opportunity to raise objections. The plan is so approved by the National Road Administration after consultation with the *Lst*. If they have different opinions, the case is to be decided by the *Regering*. An affected individual or body may also appeal to the *Regering*.

5. Legal status

The Swedish plan legislation is built up as a plan-led, but not strictly hierarchical, system. Plans at the national, county and regional level can serve as guidelines, but these do not have any binding character. Formal *regionplan* according to *PBL* thus has no legally binding status, but would serve as a basis for planning at a lower level, suggesting principles for the use of land and water areas as well as the location of development and infrastructure. An adopted plan is valid for the region as a whole or for part of it and has a duration of six years.

At the municipal level an *ÖP* - giving principles and a land-use overview - is

neither binding for the public nor for the private sector but has the status of guideline. It must be taken in consideration at decisions concerning the use of land and water. As the plan is intended to be a link between national-regional plans and municipal plans and to co-ordinate different sectoral planning aspects of importance, it should be used as a major political instrument of both the *Lst* and the municipal council to control development. If, however, a development decision deviates from the plan, there is no obligation to make a formal change of the plan.

For defined areas, not covered by a detailed plan, area regulations can be adopted in order to ensure that the intention of the *ÖP* are achieved or that a national interest is met. Such *områdesbestämmelser* are legally binding. Minor deviations may be allowed but only if their purpose is in conformity with the regulations. The geographic coverage is normally only a part of the municipality. The regulations are not limited in time. They do not give the same right to a building permit as a detailed plan and are less widely used in practice.

Detaljplan is the most commonly used and most important spatial planning instrument in Sweden. Such a plan has a strong legal status. It is binding and determines more or less the right of building in areas where it is required. Minor deviations are allowed but only if they are compatible with the purpose of the plan. A *detaljplan* also gives special rights for the municipality of compulsory acquisition of land needed for streets and other public areas. It gives strongly protected building rights within the area but for only a limited period, a prescribed *genomförandetid* (a time-limit for implementation). This limit will be at least 5 and at most 15 years and is determined in such a way that there is a reasonable chance to implement the plan. Within the time-limit, the plan may be amended or annulled against the wishes of the property owner concerned, but only when this is required as a result of new conditions of great public importance. The property owners are in this case entitled to compensation from the municipality for any damages. When, however, the implementation period has passed and the plan is still valid for development, then the municipality has the right to annul or change the plan without being liable for any compensation.

An adopted *detaljplan* as well as area regulations may sometimes cause economic damage to some owners or holders of special rights. It may be that demolition of buildings will be prohibited or that maintenance regulations are given for buildings of special value. If the damage exceeds a certain limit, the concerned party has the right to seek compensation from the municipality.

6. Implementation and control

The policy after the Second World War in Sweden was largely welfare-oriented and in main accepted by all major political parties. Principally, a decent dwelling for everyone was considered to be a social right. Public guaranteed loans with low rents were given to housing, provided that the production costs did not exceed stated limits. It was further a strongly expressed policy that housing and urban development was principally a municipality responsibility and should mostly take place on municipally-owned land, both to keep down land prices for dwellings and to secure the supply of new dwellings. To this end the municipalities made long- and short-term plans concerning housing needs and, further more, tried to acquire suitable land by voluntary and compulsory

methods before the final plans were adopted. Considerable land banks have in this way been built up in most municipalities. The land was then developed by municipal or public-supported organisations, or by private developers after agreement with the municipality.

This policy has, however, changed in more recent years. The municipalities no longer have a formal responsibility for the supply of dwellings, and housing provision is, to a considerable degree, left to the private sector. Municipal acquisition of land has greatly diminished and often changed to the selling of earlier owned land which is not deemed necessary for future development. The previously strong municipal development planning regime has from the 1990s increasingly allowed for private initiatives and market considerations. Still, however, implementation is facilitated in many cases by development taking place on municipal land. From a municipal viewpoint it is of special interest that compulsory acquisition by expropriation is allowed for land needed for development. Through pre-emption the municipality is also entitled to take the purchaser's place in certain circumstances. As said above, the *PBL* also entitles the municipality to acquire land reserved in a *detaljplan* for public spaces as to acquire sites for such public buildings as schools, day nurseries, sports and recreation facilities, railway and other traffic installations, areas for harbour, energy production and water and sewage amenities.

The municipality has normally the responsibility to construct the streets and other public spaces. It may decide that the costs shall be borne by the owners of properties in the area and apportioned between the properties in a reasonable and correct manner. Appeals may be lodged against the municipality's decision. Facilities can, however, also be provided by big developers of the land. It is a common praxis that before a *detaljplan* is adopted municipality and such developers will agree about an *exploateringsavtal* (development agreement), stating if the developer shall provide free land for streets and other public spaces and contribute to construction costs of the local infrastructure as well as regulating other conditions of interest.

Even if a detailed plan allows building of a specific type on a certain site, a *bygglov* (building permit) is still needed before any new buildings are erected or considerable changes of existing buildings are done. This is mandatory for both private and public buildings. Yet there is some flexibility in the system. It could be stated in *områdesbestämmelser* or in a detailed plan that some of the regulated measures do not need *bygglov* within the area in question or, on the contrary, that additional measures require such a permit. The design of the building as well as construction details, protection against fire, etc., has to be considered according to adopted building regulations. But if the demands of the law are satisfied in these respects, an application to the Building Committee for a *bygglov* shall be approved, if the building is in accordance with the plan. Only minor deviations are allowed, provided that they are compatible with the purpose of the plan. Before a decision neighbours and other known parties or interested ought to be informed. Building permit may also be given outside a plan area. In that case the question has to be considered against the background of the *ÖP* and other relevant circumstances.

A building permit is legally binding for the project in question but will cease to be valid if the intended measures have not been commenced within two years and completed within five years from the date of the permit's issue. An application for permit shall be directed to the *Byggnadsnämnd* (building committee) or equivalent and

(without in very simple cases) be in writing, usually on a fixed form. It must be accompanied by drawings, specifications and other information required. Conditions can be imposed in connection with approval of a permit, for example concerning inspections and control to be made. There are rights of appeal against a decision, with the exceptions of questions which are already determined by a *detaljplan*.

According to *PBL*, complete or partial demolition of a building requires *rivningslov* (demolition permit) within a *detaljplan* and may also be stipulated in *områdesbestämmelser*. In case of particularly valuable buildings from cultural or historical viewpoint a general prohibition may be stipulated. If an excavation or landfill considerably changes the altitude of the ground, a *marklov* (site improvement permit) is needed within a *detaljplan*. A plan may further stipulate that such a permit is needed for tree-felling and afforestation. If *rivningslov* or *marklov* is refused and this will cause considerable damage to the owner, compensation from the municipality is possible in certain cases.

7. Renewal, heritage, environment

A special type of implementation is *urban renewal*. It began to come into prominence in Sweden in the 1950s. The reason was not, in the first place, to establish better dwellings in the existing towns and cities, but to get space for heavy traffic, establish modern office and business buildings close to new underground and other traffic junctions, and to raise the effective floor area in the centres. The main method was demolition and new construction. In the less central parts of the towns and cities, this was mostly accomplished within the private sector. In the centres, however, the municipalities were often active, especially in bigger cities. As far as possible, they tried to acquire properties, by voluntary or compulsory purchase. Expropriation and to some degree pre-emption was used, in reality or as a pressure to get an agreement. Paramunicipal organisations were often responsible for further development, although these many times used private builders.

These demolition and rebuilding operations were later heavily criticized. Defenders of tradition and of the preservation of old buildings have more and more gained in importance. Large-scale operations have therefore mostly been superseded by small-scale infill and renewal projects within the framework of pre-existing buildings. The role of the municipality has been more passive. Parallel to this development, large action programmes have been implemented to raise the interior standard of existing houses. The aim has been to more or less upgrade old dwellings to modern standard. The main means were loans on favourable terms. In this way substantial rises in standards of older houses have been implemented. Another type of renewal is transforming old villa and leisure cottage areas on the fringe of the cities into more intensively used permanent dwelling areas. Not least for this reason a special *Lag om exploateringssamverkan* (law of readjustment) came into force 1987. The Act makes it possible for property owners to collaborate by establishing a common judicial body. The procedure has so far been only rarely used.

According to *Heritage Conservation Act* ancient remains and churches including sites around them are protected. Other buildings, parks or gardens which are outstanding because of their historical or cultural value may be listed as *byggnadsminne*. Demolition permits may then be denied and prescriptions concerning

the management can be given. Declaration as *byggnadsminne* is done by the *Lst*, which includes heritage competence and can take advice from the Central Board of National Antiquities. Special funds are available for support to preservation and maintenance costs. At the local level, *PBL* provides rules concerning protection of historically and culturally valuable objects. Permits may be denied and preservation rules may be stated in detailed plans and area regulations. A building itself may not have a high value, but it can still be an important component in a valuable surrounding which should be protected in its totality. Negotiation with the owners are a normal part of the proceeding. In all this cases an owner may have right to compensation if he suffers a considerable economic damage, to be paid by regional or municipal authorities.

Both in planning and implementation *environmental* considerations have gained much in importance during later years. They are underlined in *PBL*. Also the *Miljöbalken* (Environment protection Act) includes rules concerning protection of environmentally valuable areas. It gives possibility for the State to declare wide areas of State land as *national parks* or other State or private-owned valuable land as *nature reservations, nature protection or cultural protection* areas. The last type is mainly for protection of rural villages and rural landscapes. To get a basis material for better judgements of the needs for protection the *Naturvårdsverket* and its county representatives are conducting systematic investigations of natural objects and biotopes. They are also normally initiating decisions concerning protection. Government means are reserved to conserve mountain areas, old forests, hardwood and other forests of special value, certain swamps, etc. Considerable amounts are also given for landscape protection, partly as payment to farmers who agree to cultivate marginal farmland of cultural or scenic value. Landowner may be compensated, if the stated management prescriptions considerably constrains the ongoing land use. Great areas are preserved in this way. The law also provides protection for all *seaside and lake shores* as well as river banks up to 100-300 meters. Building in these areas is only allowed after special permit from the *Lst*. In most of the coastal areas special consideration must be given to the interests of tourism and recreation, when development projects or other measures with environment impacts are scrutinised. In specified coastal areas, further developments of secondary houses or industries with great environmental impact are more or less forbidden by law.

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United Kingdom

1. Administrative structure

The United Kingdom is in one way a unitary State but it includes four countries - England, Wales, Scotland and Northern Ireland - and three legal systems. England and Wales have the same legal system. Many aspects of planning law thus require separate legislation for these countries and it is administered by separate departments of government.

The UK Parliament enacts primary legislation which establishes the structure and procedure of spatial planning and related activities. Primary legislation is debated in both houses of Parliament and scrutinised by parliamentary committees. The acts empower ministers to make secondary or subordinate legislation (including regulations and orders). This is laid before Parliament but not normally debated. The ministers also issues circular explaining acts and regulations. and other policy guidance.

The principal components of the administrative system of government in the UK are government departments and their executive agencies, local authorities and non-departmental public bodies (NDPBs). In England, the main department relevant in spatial planning connections is the *Department of Environment, Transport and the Regions* (DoE), headed by a *Secretary of State* (senior government minister) and three ministers, one of whom is responsible for spatial planning and housing. These have overall responsibilities for the planning system and considerable discretionary and supervisory powers. They can make secondary legislation and publish policy and procedural guidance on the planning system. Another department of planning importance is the *Department of Culture, Media and Sport*, responsible for heritage etc.

Of importance in this connection are also some agencies sponsored by the government, especially the *Countryside Commission*, *English Heritage*, *English Nature* and *National Rivers Authority*. They are *statutory consultees* in the preparation of development plans (that is, they must be consulted during the plan preparation process).

The UK has no *regional* tier of government. In England, regional government has a regional presence through 10 integrated regional offices of five government departments, decentralised offices of national government ministries. Scotland, Wales and Northern Ireland have their own ministries at national government level and offices in the country concerned, which are effectively regional government departments.

There are two structures of *local* government depending on the area. Each type of local authority is governed by an elected council. In the metropolitan areas of England, Wales, the island areas of Scotland and Northern Ireland, there is a unitary structure (*London boroughs*, *unitary metropolitan district councils*, *unitary authorities or councils*). The rest of England and Scotland have a two-tier system, consisting of a higher level of *county councils* (in Scotland regional councils) and a lower level of *district councils*. There exist also a great number of parishes and community councils which however have a very limited role in the planning system.

The *courts* have only a supervisory function in relation to spatial planning,

concerning the legality of actions of the administration.

2. Legal development

The principles for land use control and spatial planning were laid down in the Town and Country Planning Act 1947. Apart from the financial provisions, the law has been changed only incrementally since. The Act nationalised rights to develop land. No development (with some exceptions) could take place without permission from the State and a 'development land tax' was levied on the development gain (betterment) when consent was given. The proportion of tax has fallen over time and it was repealed altogether in 1985.

In England and Wales, the principal legislation of importance for spatial planning is:

- *the Town and Country Planning Act 1990*
- *the Planning (Listed Buildings and Conservation Areas) Act 1990*
- *the Planning (Hazardous Substances) Act 1990*
- *the Planning and Compensation Act 1991*

There are further many statutory instruments which make up secondary or subordinate legislation, such as the *Town and Country Planning (General Development Procedure) Order 1995* and the *Town and Country Planning (General Permitted Development) Order 1995*.

In Scotland the primary legislation is the *Town and Country Planning (Scotland) Act 1997*.

3. Spatial planning structure

At *national* level in England and Wales, the Secretary of State publishes *planning policy guidance notes*. In Scotland *national planning policy guidelines* serve a similar purpose. Formal notes are updated by ministerial statements. They cover both particular topics such as town centres or the rural economy, and strategic guidance for metropolitan areas and the regions. They guide the Secretary of States and inspectors when making decisions. Planning authorities also need to have regard to these statements when formulating their plans and making decisions on regulation. In practice, whilst local authorities are not bound by this guidance, it is closely followed and quoted extensively in disputes. Adequate reasons need to be given, where decisions and policies are made contrary to national guidance. Plans are carefully scrutinised by central government to ensure conformity with government policy.

There are no *regional* plans in the UK. In England *regional planning guidance notes* are published by the DoE. In Wales, the Welsh office prepares strategic planning guidance. In Scotland, 'region-wide' plans have been prepared by regional councils, but these are effectively the equivalent of *structure plans* in England. The notes are short documents which contain no detailed map and set out a broad strategy, taking account of national guidelines when appropriate. The regional guidelines look ahead for a period of about 20 years and cover priorities for the environment, transport, infrastructure, economic development, agriculture, mineral and waste treatment and disposal.

At a more *local* level, there was before 1985 a two-tier *development plan* across all

of England and Wales made up of the *structure plan* and *local plans*. The first sets out a broad framework for development illustrated in a diagrammatic form together with general policies. *Local plans* provide more detailed guidance including precise land allocations. Many *subject plans* were also produced on topics such as minerals, green belt, landscape and caravans.

In the seven metropolitan areas a new form of instrument, the *unitary development plan*, comprising elements of both structure and local plans, was introduced in 1985. In the non-metropolitan areas a requirement for a more consistent and comprehensive coverage of local planning policy was introduced in 1991. The *structure plan* remains and each district authority has to prepare a district-wide general *local plan*. A requirement to produce countywide *mineral plans* and *waste plans* was also introduced.

Structure plans provide firm strategic guidance for the whole of the area of a county council. They have a 15 year horizon but longer for some policies as *green belt*. They have been prepared for the whole of the country as well as many subsequent alterations and replacement plans. *Structure plans* set out the strategic framework for local planning, ensure that general provision for development is consistent with national and regional policy, and secure consistency between *local plans*. They are written statements with reasoning and key diagram which shows only the general distribution of new development as well as areas to be protected in diagrammatic form.

All *non-metropolitan district councils* in England and Wales now have an obligation to prepare one district-wide *local plan*. They have a 10-year horizon, or longer for conservation, land protection policies and long-term faced development. The plan must be in general conformity with the structure plan and national and regional guidance. The plans set out detailed policies and proposals allocating (or protecting) land for specific purposes, together with general policies which are used to guide development control. They include a proposals map(s) on an ordnance survey base at a scale generally between 1:500 and 1:10 000. There will usually be one map for the whole district showing general policies and other more detailed *insel maps*. It should be possible to identify the precise boundary of proposals on the ground (figure 22).

Each *metropolitan district council* has to prepare a *unitary development plan*. These will replace previous structure and local plans and bring aspect of both into one plan. They will provide firm guidance and be the primary consideration in regulation of development. They have a general horizon of 10 years but will look further ahead for some policies such as *green belt*. A plan is made up of two parts. Part I is a framework of general policies and proposals (akin to a structure plan). Part II contains detailed policies and proposals with a proposals map(s) at a scale generally between 1:500 and 1:10 000. They follow the same style as structure and local plans.

Mineral plans and *waste plans* have the same characteristics as local plans except that their proposals are limited to land use proposals and policies related to minerals exploitation, environmental protection, restoration of sites and treatment and disposal of waste, respectively. In the non-metropolitan areas of England and Wales they must be prepared by each county council or national park board. Also other types of sector plans with spatial influences may be produced, normally regulated in the relevant Act. Actions to stimulate *regional and local economic development* may also have spatial consequences. The main mechanisms for such development are the allocation of funds and other forms of assistance as well as development of industrial land, attracting inward investment, training provision, business advice, etc.

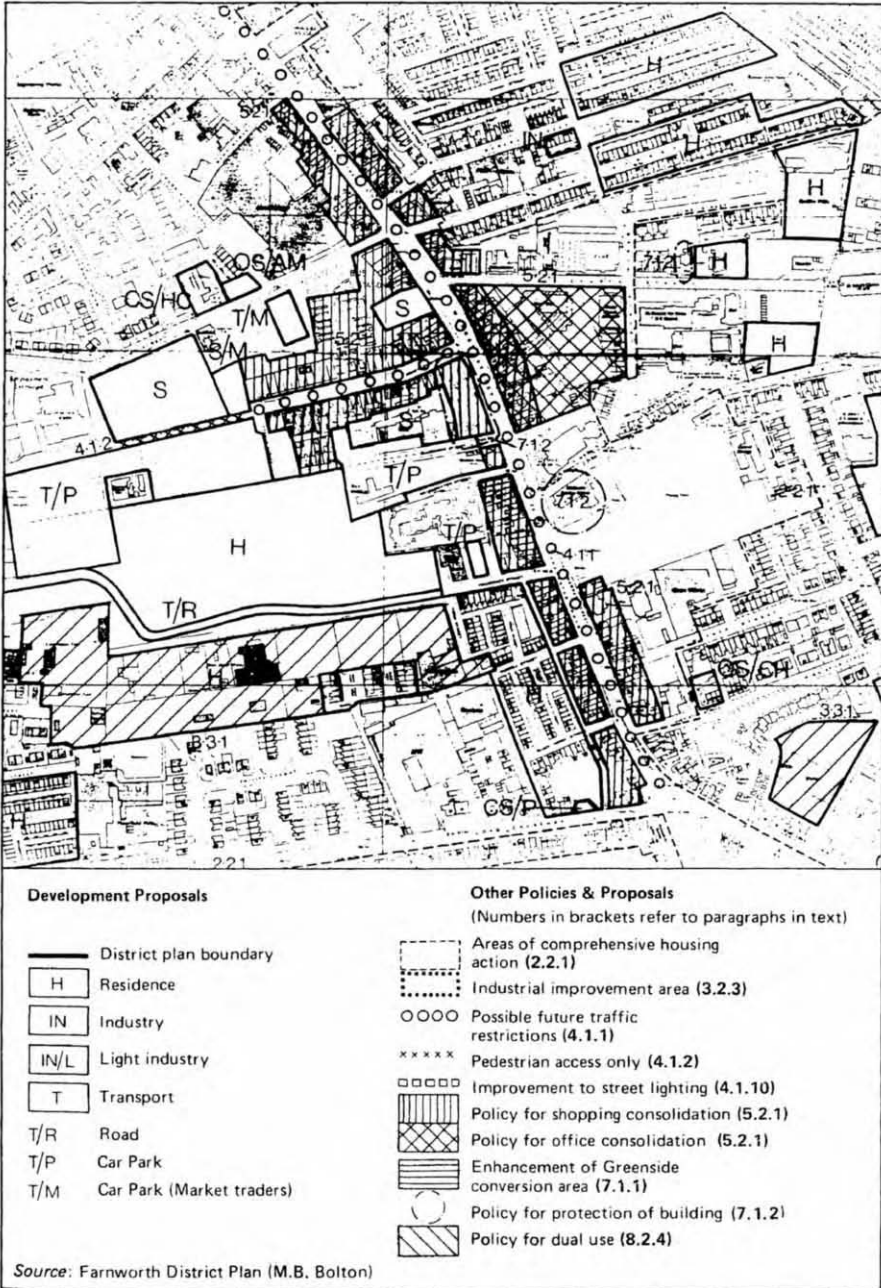


Figure 22. Part of Farnworth District Plan Proposals Map (Healy 1983)

4. Process

At the *national* level the Secretary of State has as mentioned the power to make secondary or subordinate legislation in the form of regulations and orders. Many topics are covered by such legislation, including the classification of land uses and development activities which do not require explicit consent. Before deciding on such regulations and orders they may be debated by a standing committee. They are further subject to a resolution of Parliament before coming into force. Concerning the guidance notes at *national and regional* level, also published by the Secretary of State, the lead for preparation is taken by the regional groupings of local authorities. They submit advice to the Secretary of State about what they believe should be the content of any guidance. There are no formal procedures for the production of advice except that 'appropriate consultation' should be carried out. After receiving this advice, the Secretary of State publishes a draft for consultation before issuing final guidance in the form of a regional planning guidance note.

Structure plans are prepared and adopted by county councils and national park boards in England and Wales. In Scotland they are prepared by regional councils and approved by the Secretary of State. They are subject to public consultation during their preparation (maybe also including leaflets etc. distributed to businesses, local councils and libraries) and after a draft has been prepared, published, responses have been received and have been taken into consideration, the proposal is subject to a public hearing known as a panel-lead *examination-in-public*, although this can be omitted depending on the extent of debate about the plan (in England such an examination has been a norm but in Scotland it is an exception). In the panel's report recommendations are made on how the proposal could be modified. The summary of discussion and the findings of the examination are published and anyone may object to absence of modifications. The possibly modified plan is adopted by the county council. From 1992 an approval by the Secretary of State is no longer needed in England and Wales, however in Scotland.

Local plans are prepared by district councils and national park boards. They are subject to publicity and consultation. Public meetings and exhibitions are included with possibilities for representations. The proposals must further go to the county council who have to issue a statement concerning conformity or non-conformity with guidance and plans at a higher level. If not in conformity, this counts as an objection to the plan. The authorities preferred plan is then deposited for formal objections and if any objectors wish to appear, the plan will be subject to a hearing known as a public local inquiry. The plan inspector has to leave a report and make recommendations on how plan could be modified to meet objections. Maybe after some modifications the plan is adopted by the district council. The proceedings of a *unitary development plan* is similar to the proceedings of local plans. There is further a wide discretion concerning all development plans for the Secretary of State to intervene and call in the plan for central decision or direct modifications, although the power is rarely used.

There is also a right to challenge development plans in the courts but only on the grounds that the proposals are not within the powers of the law or that regulations have not been complied with.

The development plans co-ordinate policy with spatial implications at the local authority level, including, for example, new transport infrastructure. But local

authorities and other bodies also use a number of other programming documents which have not always been well integrated with the statutory development plan, such as local economic development plans, transport policies and programmes, waste management plans, etc.

5. Legal status

In UK no guarantee of development rights is given by plans. Development rights are only allocated in the *development control* process where applications to develop or change the use of property are considered 'on their merits', but in the light of policy guidance. Neither guidance nor plans at a higher level are binding for plans and development at a lower level but should of course be taken into serious consideration before any decision.

6. Implementation and control

The public sector provides the framework, in the form of plans and policies, but generally the private sector initiates development. Public sector provisions include major infrastructure works to facilitate development, for example major roads and main highways and also community provisions such as education and health facilities. Government policy has been to reduce public expenditure and transfer services to the private sector. Increasingly, the private sector is being encouraged to invest in major infrastructure projects.

Also the final step of planning is generally the responsibility of the private sector. The local plans in England are mostly comparable with master plans in many other European countries, both concerning the degree of particularization and their non-binding status. The final step to reach binding development rights is normally not taken by the authorities but needs a special *permission*.

Key to the operation of the system is the definition of *development*. This includes building, engineering, mining and other operations, and also the change of use. *Planning permission* (the main type of permit) is required to carry out development. In most cases this is obtained from the relevant local planning authority. In the case of certain forms of development, a general right to develop is granted by secondary legislation, known as the *General Permitted Development Order (GPDO)*. Exceptions from control include maintenance, which does not effect the exterior of building, agriculture and forestry, and the erection of some buildings related to agriculture.

If an individual or organisation proposes to carry out development or undertake a change of use for which consent is required, then they must submit an application. There are two ways of seeking approval for development proposals. A *full planning application* includes all information required by the local planning authority to reach a decision. As many planning decisions relate to future development which may or may not take place, there is however the provision for a developer to apply for planning permission in two stages. The first, known as *outline planning permission*, relates to the principle of that development. The second, known as *reserved matters*, deals with the actual details of the scheme.

A planning application will consist of a number of documents:

- the completed planning application forms (available from the planning authority);
- plans. They may include site plans at 1:2 500 or larger scale (this is the only plan required for an outline application), layout plans at 1:1 250 scale, showing the proposed layout, block plans at 1:500 scale and building plans at 1:100 scale, showing full details of the proposed construction;
- fee. The application should be accompanied by the appropriate fee, specified in regulations;
- the *certificate of ownership*. The applicant does not need a legal interest in the site, but is required to notify the owner;
- *environmental impact statement* in certain specific cases;
- in Scotland, the applicant must also serve a notice on neighbouring land and owners.

If a developer chooses to submit an outline planning application may following details be held back for later approval: siting, design, external appearance, means of access and landscaping. Application for approval of *reserved matters* must be made within three years of the granting of outline consent.

The decision on a planning application should be issued within eight weeks of its receipt, or sixteen weeks in cases which require an environmental assessment. It is the duty of the local planning authority to publicise and consult with relevant individuals and bodies on all planning applications. There are three basic forms of publicity: press notices, site notices and letters to occupiers/owners of adjoining properties. The local planning authority is required to take into account any representations made in response to the publicity. The views of specialist bodies should be sought for certain specified types of development. In a number of circumstances, consultees have the power to issue a *direction* on a particular planning application, which has the effect of restricting or removing the power of a local planning authority to determine the application.

There is a presumption in favour of proposals which accord with the development plan, and that applications should be determined in accordance with the plan unless *material considerations* indicate otherwise. Such may include government statements of planning policy, representations received, all main aspects of land use planning as siting, layout and design, findings of an environmental assessment, etc. In certain circumstances, for example particular local need for that scheme, it may be that the local planning authority wishes to approve a proposal which does not accord with the development plan. Depending on the big scale or nature of the project such approvals may be checked by being referred to the Secretary of State, which gives him an opportunity to *call in* the application. It is then usual for a public inquiry to be held before the Secretary of State announces a decision. If the case is not called in, the local planning authority may proceed to determine the application. A decision takes the form of a written document. Approval can be subject to conditions. For such or for refusing a planning permission, reasons must be given. Compensation is not payable to the applicant or landowner upon refusal or conditional approval of planning permission. Full planning permission normally lasts five years, unless this is varied.

There is a basic right of appeal to the Secretary of State including the refusal of consent, the imposition of unacceptable conditions and failure of the local planning

authority to determine the application by the set time period. Only the applicant may appeal and there is no third-party right of appeal. Appeals are considered by an *inspector*, appointed on behalf of the Secretary of State. There are three methods by which an appeal may be heard: local inquiry, written representation (most common) and planning hearing (less formal than a local inquiry). The inspector will in most cases reach a decision. In the case of major or controversial applications the Secretary of State will, in the light of the inspector's report, make the final decision. There is no further right of appeal. However, the legal validity of the decision may be challenged by way of an application to the High Court.

In addition to planning permission, there are a number of other permits which may be required before a development can take place. Buildings of special architectural or historical interest are thus listed by the Department of National Heritage for statutory protection. Any work of demolition or extension which will affect its character requires *listed building consent*. It is often the case that both a such consent and planning permission are required. Separate applications must then be made. Application and proceeding for listed building consent are similar to that of planning permission. In the case of demolition or alteration, the applicant must advertise these in the local press and display a site note. The Secretary of State may call in certain applications.

There is no appeal against the decision to list a building. However, if a listed building consent is refused or approved subject to unacceptable conditions, the grounds for appeal may include a claim that the building is not of special architectural or historical interest and should not have been included in the statutory list. Rights of appeal and procedures are similar to those of planning permission.

Conservation areas are areas of special architectural or historical interest. All local planning authorities have at least one such area. *Conservation area consent* is required before the demolition or partial demolition of a building in such an area can take place. Trees above a certain size are also protected. Procedures for a conservation area consent is similar to those for listed building consent as are the rights of appeal.

A *scheduled monument consent* from the Secretary of States is required for any work to a such monument. Conditions may be attached to a grant or consent. In some circumstances, compensation is payable if consent is refused.

The felling of trees is not defined as development. However, it is possible for a local planning authority to make a *tree preservation order* in the interest of amenity to control the topping, felling, uprooting and wilful damage or destruction of trees of woodland. It may apply to a single tree or a whole woodland. Consent must then be obtained from the local planning authority. Under the Forestry Act, it is further an offence to fell any tree without the consent of the forestry commissioner, except in certain special circumstances, for example small trees.

District councils administer also *building regulations* according to the Building Act 1984 and the Building Regulations 1991. Planning permission and approval under the building regulations are separate decisions. The requirement of the regulations are written in functional terms, and their purpose is to secure 'reasonable standards'. Supervision and certification of building work may be carried out by approved inspectors or by a local authority. When the work has been completed a final certificate for each dwelling must be submitted to the local authority.

For each of the consents required, the relevant legislation defines clear exceptions to the requirements for consent. Exemption from the need for one consent does not

automatically involve exemption from the requirements of another consent. In England and Wales, the carrying-out of development without planning permission constitutes a breach of planning control but it is not a criminal offence. There exist, however, certain enforcement procedures. If the local planning authority is satisfied that there has been a breach of planning control which is unacceptable on its planning merits, an *enforcement notice* may be issued. The notice contains a time limit for complying with its requirements. However, there is a right of appeal. A *stop notice* can be served with the enforcement notice. The local planning authority may also serve a *breach of condition notice* in respect of this type of breach of a planning control.

7. Renewal, heritage, environment

The government, in partnership with business, community, voluntary groups and local authorities is working to improve the quality of life in urban areas through economic, social and environmental *regeneration*. The Department of the Environment is responsible for co-ordinating action across other government departments. *Enterprise zones* are designated for areas of industrial decline. They offer significant incentives to invest through tax relief and a simplified planning regime. Planning permission for specified uses is granted in advance. Their status runs for 10 years from the date of designation. Urban development corporations are government agencies which have powers to acquire land within designated areas, *urban development areas*. Public investment spending by these corporation focuses on roads, transport and other infrastructure. Other key agencies and programmes of the Department of the Environment for urban regeneration are English Partnerships, City Challenge, inner-city task forces and city action teams. Spatial planning can contribute to city regeneration in different ways such as seeking improvements in town centre functioning (highway improvement, parking provision, etc.) and only permitting development outside town centres if proposals comply with other policies in the plan. Any substantial development scheme will be subject to an environmental impact assessment and/or impact studies on retail, traffic generation, parking, etc.

Concerning *urban conservation* the local planning authorities have a duty to designate as conservation areas any 'areas of special architectural or historical interest, the character or appearance of which it is desirable to preserve or enhance'. English Heritage and the Secretary of State for Culture, Media and Sport also have powers to designate conservation areas. There is no statutory requirement to consult prior to designation and there is no appeal against it. The same Secretary of State also is required to compile a list of buildings of special interest from these viewpoints. Most buildings built before 1840 are listed while more recent buildings will be carefully selected. They are listed by grade: buildings of exceptional interest, particularly important buildings, buildings of special interest.

Earlier is mentioned how different types of permits, regulations, control and environmental impact assessment can be used as means to *protect conservation and environment*. There are many others, perhaps more active measures. In the *countryside* there exist a whole range of special actors, agencies, designations and special funding programmes to protect and enhance environmentally sensitive areas. Thus, the National Parks and Access to the Countryside Act 1949 led to the creation of 10 *national parks* in England and Wales. The functions of these are to preserve and enhance the natural

beauty of their areas and to promote their enjoyment by the public. All the national park authorities have the responsibility for development control and are local authorities. They have also the responsibility to produce and review at intervals of not more than five years a national park plan. In order to implement its plan, each national park has control over its own budget. Means are mainly derived from the central government but partly also from local authorities. Scotland's most important landscapes are protected as *national scenic areas* and almost 15 % of the land area falls within this designation. In these areas, development is more strictly controlled.

The probably most important single agency promoting landscape and environmental conservation in England is the *Countryside Commission*, a public body. There are seven regional offices which are responsible for implementing its policies at the regional scale. It has a statutory responsibility for the conservation and enhancement of the natural beauty and amenity of the countryside in England and the promotion of the enjoyment by the public. There are several other agencies working with similar objectives such as *Groundwork Foundation*, *English Nature*, *Countryside Council for Wales*, *Joint Nature Conservation Committee*, *Scottish Natural Heritage* and the *Council for Nature Conservation and Countryside* (Northern Ireland). Different types of areas have a special protection such as *Sites of special scientific interest*, *Areas of outstanding natural beauty*, *Environmentally sensitive areas* and *Nitrate-sensitive areas*.

Coastal areas are recognised as an important natural resource. The main advice on how the issue to protect, conserve and improve the quality of coastal areas through planning is provided by a Planning Policy Guidance 'Coastal Planning'. It is predominantly the responsibility of the local authority to reconcile interests in the coastal zone. However, many of the special policies that apply to specific areas of high landscape value or to areas of scientific interest equally apply to coastal zones. In addition to these statutory designations, other designations and agencies help to manage the coastline for conservation and recreational purpose. *Heritage coasts* are non-statutory designations by the local authorities.

Appendix 2

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Poland

This summary is based on information given in "Compendium of spatial planning systems in the Baltic Sea Region", Visions and Strategies concerning the Baltic Sea 2010. The report focuses on the planning systems and does not take up implementation methods, renewal and preservation aspects etc for closer consideration.

1. Administrative structure

Poland is a unitary republic with a growing role of self-governments. There is thus self-governmental authorities on the regional, county and local levels of public administration. But all the legislative power and still a substantial part of the executive power is bound to the central institutions of the state.

At the *national level* the Parliament is responsible for the main legislation while the executive power lies in the hands of the Council of Ministers (Cabinet). The governmental agency which under the ministry for planning matters is responsible for general co-ordination and standardisation of physical planning in Poland is the Housing and Urban Development Office (H&UD). But responsibility for the national *spatial development policy* and other kinds of planning at this level lies in the Government Centre for Strategic Studies (GCSS). Another planning-related authority on the central level is the Ministry of Environment, responsible for so called "protection plans" , prepared for the National and Landscape Parks.

There are 16 *regions* in Poland. Regional self-government comprises the Regional Assembly called *Seymik* and the Board of the Region, headed by the *Marshal of Voivodeship*. The regional authority has full responsibility for strategic (comprehensive, socio-economic) and spatial planning at regional level. The State exercises its control functions (restricted mainly to public safety, building, environmental and health standards, general conformity of laws) through the regional representatives of the central government (called *Voivodes*). The regional office responsible for planning is the Marshal's Office and its Department of Strategy and Development.

There are 173 *counties (poviats)* in Poland., including 68 cities with the power of independent municipal counties. The role of counties in public administration is intermediate, rather auxiliary, with no specific planning responsibilities.

The basic, traditional self-governmental entities at *local level* is the commune, called *gmina*. There are 2489 such entities., of very different size and social, economic and environmental features. Apart from these differences, the communes have the same quite substantial responsibilities in development and physical planning, but their enforcement potential is rather weak, with the exception of the 68 cities.

2. Legal development

The first building act in Poland, comprising the regulation of urban planning, was passed by the Parliament in 1928. In contemporary Poland it is the Constitution that lays down the principles of sustainability and self-governance as the fundamentals for the policy of spatial development. Basic regulation for the field in question, however, is

provided by the Spatial Development Act of 1994 with later changes. This law has substituted previous regulations issued in 1961 and 1984. There are other important Acts of Parliament which impose certain tasks and obligations on spatial planning actors:

- The Environment Protection and Management Act (serving as the framework for many detailed law regulations);
- The Building Code (in relation to construction and engineering activities)
- The Law on Real Property management.

There are further acts regulating protection of cultural assets, sea administration and coastal management, construction and maintenance of roads and railway lines, etc.

3. Spatial planning structure

There are three basic levels of the planning system: national, regional and local. All of them are strictly connected with the area of a given administrative unit. However, in practice, in rare cases the so-called *functional planning studies* are prepared, covering areas different from the administrative units.

At the *national level* the Government Centre for Strategic Studies produces in an interactive way a strategic and open document called the Outline of the National Policy of Spatial Development. Alongside with the socio-economic and environmental policies it constitutes a regulatory tool for structural changes in the country through its functions of keeping local governments and sectoral interest groups informed and involving them in strategic spatial development. At this level, it is not a plan of physical structure but rather a kind of open and strategic planning process. Basic objectives of this document according to the Act are the following:

- providing natural, cultural, social and economic circumstances, objectives and directions of national spatial policy;
- establishing the principles of the spatial system of settlement and infrastructure;
- balancing the development of regions;
- establishing the basis for sectoral and regional programmes of public tasks.

The Council of Ministers (Cabinet) decides to what extent the document is taken into account while elaborating national programmes for fulfilling governmental tasks.

Complementary to this document, periodical reports on spatial management of the country are to be elaborated on the national level as part of the state monitoring system.

At the *regional level* spatial planning comprises two different processes and documents. First, a *regional strategy* has to be prepared and adopted in each region. These documents are of very comprehensive nature and focus mainly on social and economic issues. Regional programmes (action plans listing priority and actions to be fulfilled by regional authorities) have to be based on the strategy and co-ordinated on the other hand with the *regional plan of spatial development*. The task of this one according to the Act is to formulate the spatial policy of the region based on the concept of

- socially agreed objectives and directions of development;
- spatial development and settlement system organisation;
- location of principal public infrastructure and other development programs;
- integration of natural and cultural environment requirements into spatial policy;
- and eventually and indirectly, the concept of balancing regional and local interests with those of the whole country.

Because Polish regions are relatively big entities, some of the regional authorities have proposed a new kind of comprehensive (integrating physical and socio-economic development) sub-regional spatial development strategies as necessary for certain specific areas.

All *local communes* are obliged to prepare and approve a local *comprehensive* planning document, a study on the preconditions and directions for the physical development of the commune. The planning object is the whole territory under the administration of a single commune or the territory of several of them. The Act prescribes their tasks as

- identifying the physical development preconditions and directions of the commune;
- establishing principles of sustainable territorial and economic development;
- functional zoning and indication of areas for housing and other direct investment;
- giving general proposals for technical infrastructure systems (e.g. sewage treatment), location of main roads and other technical networks;
- identifying the most important preservation areas due to their natural, economic (e.g. agricultural) and cultural value;
- establishing local planning policy;
- determining the boundaries of areas indicated for organised development or revitalisation, and sites intended for implementation of public objectives (programmes).

Local *physical development* plans are usually prepared for some part of a commune only when necessary. Such a plan is the legal basis for detailed spatial development. It determines allocation of land between different functions and provides also a legal basis for reclamation for important public tasks. It will give detailed regulations for

- land use and infrastructural services (amenities);
- establishing and observing local standards and building conditions;
- dividing a given area (covered by the plan) into building plots.

Local level planning authorities have also competence to issue the decision on Conditions for Building and Land Development (*development conditions*), an administrative decision which gives the user of the land or potential developer relevant information on the allowed development. This instrument enables implementation of the plan and is issued upon request only. In the absence of a local development plan, under certain circumstances, the decision on development conditions can substitute it.

4. Process

The *National Development Strategy* is produced in a very interactive way in consultation with different authorities, institutions and organisations. Whether it is obligatory or not and when it must be prepared, the Act does not say. It is then the Council of Ministers that determines how the policy is used for formulating governmental programmes implementing supra-local public objectives of physical development of the country and thus creates the base for concertation of all the regional and local plans with the national policy. Before the national policy is finally approved the congruence with the government sectoral programmes and regional strategies and plans should be a subject of agreement (negotiating "regional contracts").

The draft of a *regional plan* should be presented for opinion to the minister responsible for Housing and Urban Development and to the appropriate authorities of communes and counties in the region. Governmental and regional programmes approved in the above-mentioned procedure and having the financial back up are further negotiated with the communes with the aim of incorporating them into the respective local development plans. The regional strategic and spatial plans are adopted by resolutions of a regional assembly.

The Act does not prescribe public participation in the preparation of regional plans or the obligatory *comprehensive local plans*. However, co-operation of different institutions, organisations and the public at large is possible and practised. The participative procedure is very often employed and has often an extensive local media coverage. The commune should normally present the draft of the comprehensive plan to the Voivode, the regional board, the boards of neighbouring communes and to relevant sectoral authorities. The plan is adopted by resolution of a commune council but it is not a communal regulation.

So far comprehensive plans are prepared rather seldom and seems to have rather superficial methodology and too general decision content.

Preparation of *local development plans* is generally not obligatory but is preferred as the basis for plotting and building permits in all areas. In some instances the preparation is obligatory, for example for an area where the implementation of the governmental or regional programmes or local public objectives is expected and identified in the comprehensive plan or specified in special regulations. If the commune council fails to adopt a resolution initiating preparation of a development plan, the Voivode shall call upon the commune to pass the above resolution. In the case the commune fails to do so the Voivode shall himself initiate preparation at the cost of the commune. Normally, however, the commune council initiates the preparation - upon its own initiative or upon an outside motion - by a resolution defining the boundaries of the area as well as the subject and scope of the awaited provisions of the plan. Initiation to prepare a development plan for a group of communes or a part thereof requires concordant resolutions of all the involved communes.

The local development plan is the only document which according to the Act must be subject to public participation. The rules are regulated by the Act in detail. The Act enables and even demands co-operation of specified governmental institutions and self-governments (regional and local - such as neighbouring communes) during the process. Following the resolution of the commune council on initiating the preparation of the development plan, the commune board has to apply for the opinion of authorities of government administration appropriate for the subject of the plan. Moreover, the draft of the plan has to be agreed with the Voivode, the Regional Board, the boards of

neighbouring communes and the sectoral authorities listed to specific Acts of Parliament. The said authorities are required to co-operate in preparation of the draft of the plan, in the way of expressing opinions, filing motions, and providing information at their own costs.

The commune provides further written notification of the date when the draft shall be displayed to owners and tenants of real estate whose legal interests may be infringed or from whom a fee may be collected as well as to persons whose motions were not taken into account in the draft plan. The commune board makes the draft plan and the forecast of its environmental effects available for the public for a period of at least three weeks. The Board examines within one month the protests and objections filed against the draft plan and presents those that were not taken into account to the commune council. The interested parties must be provided with excerpts of the council resolution on rejecting the objections, accompanied by instructions of filing a suit to the administrative court. After taking into account the decisions of the administrative court, the commune council adopts by resolution the draft plan and announces the date of the session where the draft plan will be up for consideration and adoption. The Voivode or the Board of the Region can dispute the provisions of the local plan only when the governmental or regional programmes were not incorporated in the plan. Everybody can appeal against enforced plans. This can be done on the grounds of its legal failures exclusively.

The commune board can issue the *development conditions* for any area covered by the development plan. Its content must be driven directly from the respective plan provisions and in agreement with national legislation. If the said decisions precede investment which might have negative consequences to the environment, human health, conservation areas with historical monuments and certain other areas, they require agreement with specific authorities listed in the Act.

According to the Act, the plans on all levels do not expire on a given date. However, local development plans that were enforced before the date the Act became effective (January 1, 1995), expire 7 years after this date. Alterations or changes of the plans, in particular local plans, could be initiated any time, but the formal procedure is the same as for the standard procurement and production of a new plan.

5. Legal status

The *national policy* influences the regional plans through sectoral government programmes of public interest and indirectly when these governmental tasks have to be included in a local physical development plan.

The *regional plan* can also influence the local level if specific regional government tasks have to be included in a local development plan. In general, it does not infringe communes' legal power regarding local physical development and is not a regional by-law but offers a kind of policy framework for the regional self-government.

The *local comprehensive plan* demands for new development plans to be prepared and provides them with the policy framework. The commune council has to check concordance of a given development plan with the comprehensive plan when enforcing the new plan. But the comprehensive plan has no legal obligations for third parties. It is rather a policy constituting and co-ordinating document.

Direct impact on property owners has a *local development plan* only. Its provisions, together with other legal regulations, shape execution of real estate ownership rights. Binding development plan constitutes the basis for issuing a decision on *development*

conditions for building and land development (planning permission). On the day a development plan or its modification comes into effect, all previous decisions on development conditions in contradiction with the provisions of this plan become invalid.

According to the Act, adoption of a development plan can result in a special fee to be paid for an increase in the value of the property. If the owner sells the real estate, the commune will collect a one-time fee, the rate of which is defined in the development plan as a percentage of the increase in value, not higher than 30 %. If the value of real estate declines as a result of adoption of a development plan, the owner may demand compensation from the commune according to one of the following alternatives:

- 1) compensation for the real loss incurred
- 2) purchase of the real estate or part of it
- 3) exchange of the real estate for another property

The compensation to be paid for a decline in the value of real estate is established for the date the property is sold. Claims regarding the decline in value may be submitted within five years of the date the development plan becomes effective.

There is no specific regulation referring to the building right in rural areas. The general rule declares that within the boundaries defined by law and by norms of social behaviour, everyone has the right to develop land to which one holds the legal title.

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