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ticle 37, the National strategy actually stipulates that: »the structure of buildings, streets and other public places, such as squares, parks and playgrounds (i.e. everything), has to follow traditional urban disposition«! I wonder whether the museum in Bilbao or the Sydney opera follow traditional urban disposition? They don' t? Have Bilbao and Sydney lost or gained anything when it comes to design?

A special chapter of BL deals with organisation of the profession. A new chamber (of registered professionals) is fine, but numerous spatial planners have been evidently unjustly victimised with the new »P« license. Geographers, surveyors with planning degrees and communal (utilities) engineers can obtain the license, but they can only work on strategies, regional concepts and some of the planning orders, all of which is in complete disproportion to their knowledge when compared to architects and landscape architects. For decades architects have been complaining that civil engineers and even engineering technicians are designed buildings. Now the profession of architects is practising the same terror over other professions: a civil engineer with a degree in road engineering won' t be able to take responsibility for a location plan for a road or railway, a mechanical engineer won' t be able to take responsibility for a location plan for a pipeline. But what do architects now about designing routes, technologies and specialised regulations concerning technical infrastructure?

The new laws have sharply empowered the campaign against illegal building. This luggage is definitely of the type Slovenia doesn' t need on accession to the European Union. We can only hope that builders of illegal buildings won' t be taken under the wing of the media, marginal groups of »civil society« – or better still civil disobedience – which always dilute administrative procedures, the work of inspectorates, police, prosecution, courts and sentencing.

Enforcement of both laws is of key importance for the success and social status of the profession. Efficient enforcement is crucial although we can add hundreds of new articles, penal provisions, by-laws, ordinances and guidelines. It seems that the overwhelming quantity of legal provisions are substitutes for cultural relations to the environment, respect for legality and considerations for interests of our neighbours and fellow-citizens. We could in fact live with much simpler laws. Even Hamurabi' s law, the Building code of the Carniola Duchy or the Building law of the Kingdom of Yugoslavia could in many aspects still be operational.

The law is relatively unfriendly to investors, since it mainly limits, prohibits, demands and conditions. Stimulating contents cannot be found, even for demographically endangered settlements, old industrial or mining towns, but also promising future economic zones. It doesn' t respond to spontaneous disappearance of cultural landscapes because of forest overgrowth. In relation to private ownership of property the laws are rather social, even socialist, and much less market- or liberal oriented. The ideals of the welfare state have in conjunction with principles of sustainability and doctrines concerning protection of nature and the environment produced very limiting laws, which significantly curtail rights to property ownership and especially enjoyment of benefits from property. Consequences can go both ways: beneficial for the public interest, environment and wider society, when enforcing the public domain, bad for offer of space as a commodity in economic success, dynamic competitiveness or expansion. However, only the latter can ensure resources for the welfare state, clean environment, purchase of property for the public domain etc.

We have to be aware that we will be living with the new planning legislature for some twenty years. Recent laws (stipulating planning procedures, documents and contents) were adopted in 1967, 1984 and 2003, i.e. in periodic cycles of almost 20-year. With positive action even the new laws could be a good, even excellent foundation for quality changes and preservation of our space, otherwise not. Twenty years from now I expect a planning legislature common to all European Union countries. In view of the disorder and poor discipline of the Slovenian profession and individual players when planning and the environment are the concern, this wouldn' t be bad.

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Notes:

[1] Also Kongas (1995), examples of the »Bestimmingsplan«, Denmark, The »Plan particulier d'amengement« and »Plan d'occupation des sols«, France.

[2] Also Hudoklin (2002), Prelovšek (2002).

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Alma ZAVODNIK LAMOVŠEK

Spatial planning on route to a systems solution

1. Changes

Soon after independence, spatial planning in Slovenia began experiencing significant changes. The relations between the valid and new social order transformed rapidly. In physical planning changes were most evident on the local level, soon after the Law on local self-government was passed (Official bulletin, No. 72/93). It formalised the division of former communes into smaller territorial units, thus shattering the recognised communal system. This was coupled with reform of government organisation, whereby a massive gap emerged between the state and the local communities. Responsibilities of municipalities and the state were redistributed. Thus municipalities lost many of their former responsibilities, which were transferred to administrative units (first tier of central government) while many remained on a superficial, general level. Similarly, in physical planning, municipalities could in principal exercise all the responsibilities concerning physical planning on their territories, but practice showed a different image. The problems were mainly consequences of over-generalised legal provisions, since the division of responsibilities between the state and municipality was not clearly specified. From the

overwhelming quantity of issues, the following are some of the more significant ones:

- According to the law, local communities had original responsibilities in physical planning, but this was generally not true, since they couldn' t avoid so called »compulsory national directives« from the valid national spatial plan, which cover more than half the territory of most municipalities;
- Permitting was (still) done by the state. Permits for particular developments, with respect to their size and importance, were granted by administrative units or the department responsible for physical planning, Where did therefore real responsibilities concerning physical planning lie: on the municipal or national level?
- Understanding of physical planning by all involved sectors (departments) was extremely single-minded, whereby another issue emerges concerning not only the division of responsibilities between the state and municipalities (vertical negotiation of interests), but also harmonised activity between particular departments on the national level (horizontal negotiation of interests;
- The gap between the state and municipalities was vast, thus physical planning couldn' t operate efficiently and successfully. The gap wasn' t only organisational, but also in content, which could be seen as unbalanced levels of detailing, conformity and rigidity of planning acts and deficient clarity caused by mixing of directions and real demands in planning acts adopted on either the national or local level.

A consequence of such circumstances was that the state often intervened in particular solutions on a level of detail, which had to do with implementation as such. Thus it was becoming an (superior) authority, whose use of power and increasing interventionism couldn' t in fact control ongoing events. Quite the opposite was the effect; problems increased and become unmanageable while the process became entangled in a bewitched circle.

In such circumstances the need for a new systems approach in physical planning was becoming even greater. Thus in the early nineties the creation of a new law about spatial management was begun, which saw its' epilogue after more than ten years. In the intermediate period conditions in physical planning steadily worsened. On the national level significant changes and amendments of the national plan were adopted [1], The Office for physical planning at the Ministry for environment, physical planning and energy issued numerous by-laws and guidelines [2], which replaced the procedure of negotiating interests in space with so called compulsory national directives. Above all the latter gave particular departments the executive power in decision making while physical planning on the local level became a receptacle of various data from particular sectors and their integration on joint maps.

By year 2000 the problems were so unmanageable that the Office for physical planning organised a meeting of experts within the series of meetings titled SiP – Slovenian planning. The discussion was about local physical planning and the emphasised issue was the relationship between the state and local communities – municipalities.

The topic is becoming increasingly present, since the list of unresolved conflicts and issues in physical planning in Slovenia is apparently endless. Issues range from day-to-day problems emerging in implementing development in practice to methods of managing the system of physical planning, thus making it efficient and successful in practice. The conditions remained critical until the adoption of the new Law on spatial management planning (LSM), which should introduce reforms to the national system of physical planning, and whose rationale lie in the Estimate of conditions and trends in Slovenian space and the Policy of spatial planning in the Republic of Slovenia [3]. The Policy of spatial planning is a fundamental document, which gives the new law roots for changes to the system of physical planning and is the backbone of ensuring harmonised and joined activities of all involved subjects at all levels of decision making.

2. New conditions

In January 2003 the long awaited law became valid (LSM, Official bulletin, No. 110/02). It was envisaged as the legal basis for transformation of the discipline, which includes physical planning, measures for enabling implementation of planned development, preparing land for development, regulating activities in physical planning and the establishment of a spatial information system. Aligned to ensuring sustainable spatial development, the main goals of the law are:

- Delineation of responsibilities concerning physical planning between the state and municipalities in conjunction with the introduction of the regional planning level;
- Enabling more public participation in spatial management, as well as transparency of procedure and adoption of planning documents;
- Ensuring greater flexibility in determining contents of planning acts and planning of particular developments;
- Assuring respect for the new status of private property in planning and recognising private initiative in operational spatial management;
- Diminishing risks in the preparation of investment intents;
- Ensuring accessibility and clarity of planning acts and planning regimes imposed on particular building lands;
- Regulating professional involvement in physical planning.

According to the new law (LSM), the top physical planning document is the Strategy of spatial development of Slovenia. On the national level it also introduces the Planning order of Slovenia, a document, which will stipulate basic and detailed rules for spatial planning on all the country' s territory. Both documents are the starting point for any document on the local level, i.e. Strategy of municipal spatial development, including the urbanistic and landscape concepts, as well as the Municipal planning order, whose basic intention is to determine land use. On the implementation level the new planning system has introduced the location plan, a document intended for planning specific and particular developments on the national and local level. The possibility for preparing inter-municipal location plans, i.e. documents covering territories across municipal boundaries by more than one municipality, is also provided.

Alongside the national and local levels of planning, the law introduces the regional level as well, in which regional spatial development planning concepts will be elaborated, thus forming an intermediate link between the national and local planning levels. Their basic intent is to direct developments with national or regional significance by common agreement between the state and municipalities. Particular municipalities and the state will prepare joint acts for particular

areas or particular planning issues, which will be obligatory for the state and the involved municipally: according to the regional development concept, the state will have to adopt national location plans while municipalities will have to align their municipal spatial development documents according to the same.

An important novelty in LSM is the collection of spatial data and Report on conditions in spatial management. The latter will also include the analysis of conditions and trends of spatial development, analysis of implementation of the Strategy of spatial development of Slovenia and other national and regional planning acts, as well as proposals for further spatial development in the country. Based on the established conditions, it will also include proposals for changes and amendments to the National strategy.

The law brought about the long awaited »reform« of the physical planning system with certain novelties in content and hierarchy of planning acts. Changes in the system mainly refer to:

- Introduction of the regional level of physical planning, with the so called regional concept of spatial development;
- Introduction of the planning order on the national level;
- Shifts between contents of particular planning acts on the local level;
- Introduction of the unitary implementation acts for all kinds of developments on the national and local level;
- Expanded procedure of adoption and amendments to planning acts.

Nevertheless one does sense a lack of methodological novelties and clear distinction between contents and details of particular planning acts at various levels of planning. Certain issues concerning processes haven' t been clarified, thus the new physical planning system is incomplete, overstructured and disconnected. Instead of expected answers and system solutions (clearly specified in the law' s goals), LSM has besides unsolved problems, brought a series of new issues and dilemmas, of which the most critical ones are discussed further on [4].

The role of physical planning and departmental documents and laws is defined only in principal, without clear guidelines and responsibilities of various subjects of physical planning in negotiating development and preservation interests.

The variety of planning acts is exaggerated. Consequentially the defined hierarchy of documents is rigid and nontransparent. Strategic and implementation acts are mutually intertwined. An example is the national planning order, which is defined as a strategic planning act, but it simultaneously defines detailed rules for the building of nationally significant developments, which is in entirety the implementation level of a document.

In the new physical planning system the position and role of regional concepts of spatial development is unclear. On one hand its' methodology and content are not sufficiently specified, while on the other the legally stipulated system is still focused on only two planning levels: national and local. The regional level is therefore a more or less unnecessary evil, which is only formally required.

The national planning order is a new physical planning document, whose content is specified as a framework. It is a planning act, which should provide basic and detailed rules for spatial management. If it will define basic rules as a framework for actions on lower planning levels, then its' role can be successful and efficient. However, if the set rules will be over-detailed, its' implementation will be less successful, either because of excessive stipulated demands or disrespect for particularities of specific areas. Because of these specificities, a possible consequence is the inoperability of the act (e.g. distance of buildings from plot boundaries, use of building materials for new buildings, utilities required on building plots in areas of dispersed settlement etc.).

The dangers persist of planning acts being either over-rigid, with details concerning future development and building rules, or their role being over-flexible and un-precise (strategic or implementation nature of the act!). Both are obstacles rather than stimuli for efficient, quick and successful solutions of present and new (emerging) planning issues.

The same contents appear in various planning acts. This is most obvious in the regional concept of spatial development and the municipal strategy of spatial development, in which, besides the content, even the scale for presenting proposed developments haven' t been specified.

The procedure for adopting planning acts has to be mentioned, the only difference from the previous one being the additional so-called planning conference. It is proscribed for all planning documents equally. However in view of the devised physical planning system it is quite unsuitable in the preparation of (at least) the national planning order, because it doesn' t allow quick amendments to the document, and any change demands repetition of the whole procedure in entirety. Troubles ensue also in the contents of spatial management guidelines, which should be submitted by subjects of physical planning. Here we can in fact speak about a specific paradox: physical planning subjects submit guidelines for spatial management for a document, which will specify rules for spatial management. Unsystematic solutions can be seen also in regional concepts of spatial development. This is actually a document, which is a partner act between the state and local community, implying tight mutual cooperation between the state and local community during its' preparation. Understanding of the legal provisions one can understand that even in this case the state is being given the advantage, because it provides guidelines for physical planning, similarly as with all other acts. Partnership is therefore and thus far understood only as financial involvement in the preparation of regional spatial development concepts.

For this reason one must question the intention of such reform of the physical planning system but also its operability. Even before, one must question the prime purpose of contemporary physical planning.

The answer is not simple since physical planning is a process by which we improve, manage, protect, maintain, preserve etc. space and with it ensure quality living environments according to principles of sustainable (spatial) development. However there are no long-term answers with single meanings to the given challenges. All solutions being prepared for further directing of spatial development are images of single possibilities of all possible ones and are created in given timeframes and given conditions. Simultaneous to this finding another issue emerges, how to set

planning conditions (how?) for development tied to a certain area or site (where?), if the type of development/activity isn' t known and defined in advance (what? when?).

3. How to proceed?

Amongst the key answers to all stated questions is undoubtedly the physical planning system, whose operation should be harmonised in content, methodology and process. In contemporary society it should be devised to determine conditions and guidelines, with which response to the increasing speed and quantity of changes and initiatives is enabled. The rigidity of traditional planning procedures and their consistent hierarchical structure, have to be overcome. Flexible relations have to be sought for, with which achievement of same goals at various levels of public administration can be met, especially between various departments. Amongst these goals public interest has to be emphasised, closely followed by increased public participation in decision-making processes.

In such circumstances physical planning has been given new responsibilities for ensuring spatial cohesion. Thus, by establishing homogenous conditions on the whole territory, local communities should be able to follow their inherent economic, social and cultural goals. It also has the responsibility to maintain and develop territorial identity, variety, particularity and advantages (Camagni, 2002).

Therefore, in a contemporary physical planning system the following has to be enforced:
- The principle of horizontal ties between various departments (sectors) that influence physical structures;
- The principle of vertical ties, which implies ties between various institutions at various levels of the planning process;
- The principle of partnership between the public and private sector, whereby private efficiency and public control ensure positive effects;
- The principle of devising visions or concepts, which will have to be implemented in the physical planning process, through partnership with various publics.

The proposed principles can be enforced only with instruments that are neither rigid nor un-flexible as those in recent systems of physical planning. Practise has shown that rigidity and un-flexibility are the greatest obstacles in implementing goals and directions of development and planning. New instruments therefore have to be much more pliable, thus ensuring quick responses to changes in the environment. This is the basis of modern planning documents (acts), which are a strong tool for achieving set goals of development and planning. In this context the state should enter the physical planning process as an equal and not higher ranking partner (decentralised system), while regulation instruments should be used for guiding rather than »top down« decision making.

For efficient and successful operation of the adopted physical planning system certain amendments have to be made, which will give particular planning acts real purpose and validity:
- The national strategy of spatial development should be predominantly a guiding document containing guidelines and recommendations for directing and harmonising documents, horizontal and vertical negotiation of interests, achieving partnerships between private and public interests, integrating the public in decision making, at the lower, mainly local planning level;
- Instead of rigid proscriptions in the national planning order numerous manuals and guidelines have to be prepared, which will present links to existing departmental goals and guidelines concerning physical planning and will aid planners in achieving set goals of spatial development;
- A strong regional planning level has to be established, at which the full validity of horizontal and vertical cooperation between the public administration and various sectors can be achieved, including public participation;
- Local communities have to be strong enough to create scenarios of spatial development, thus realising their original responsibilities concerning spatial management.

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Notes

[1] Concerning changes and supplements to spatial components of the long- and mid-term social plan of the Republic of Slovenia (Official bulletin, No. 11/99), which introduced numerous amendments to their contents.

[2] Amongst other also the expert recommendation for execution of the Ordinance on changes and supplements to the spatial components of the long- and mid-term social plan of the Republic of Slovenia when preparing spatial components of local (municipal) planning acts and establishing their concordance with compulsory guidelines from the spatial components of the long- and mid-term social plan of the Republic of Slovenia.

[3] The Government adopted both documents, 20th December 2001.

[4] The article doesn't deal with problems occurring during transition to the new spatial planning system.

For literature and sources turn to page 20.

Illustrations:

Figure 1: *Illustration of protected areas (so called »compulsory national guidelines«) in the Municipality of Idrija. Plannable space, in which the municipality can exercise its' original rights concerning spatial management, cover less than a third of its' territory...*

Figure 2: *Missing links between content and procedure in the Law on spatial planning. The system of physical planning (without concrete planning acts) as prescribed by the Law shows that certain key connections between content and procedure are missing, thus the system doesn't have established return links for successful and efficient implementation.*