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The state administration should help municipalities, individuals and companies with concrete information about possibilities for obtaining funds for documentation and/or completion of projects. Similarly the government should prepare documents (e.g. Strategy of spatial development of Slovenia and National planning order) done on a high European level; the quantity of comparable analyses, knowledge and possibilities for reviewing good examples from the recent past of EU practice is sufficient. Education institutions have to change and supplement their study programmes and curriculum thus providing better education for a larger number of physical and urban planners; the activities of physical and urban planning cannot be done by only architects, landscape architects, civil engineers and surveyors and other professions, but by individuals educated in a graduate course of physical planning.

The proposed concrete measures are as follows:

A. Member states and the Commission have decided that ESDP is an instrument, which can help in improving coordination between the unions (departmental) policies (ESDP, p.19). Since Slovenia will become a full member of EU in 2004 even ESDP and all the documents and materials adopted by DG XVI will gain more influence. In other words, the activity of physical planning, despite the fact that EU doesn' t have specific laws for the discipline, has gained in its' own right.
B. The use of physical planning as a tool of economic, social and cultural goals, as well as environmental conditions is essential. Physical and urban planning cannot be self-referential. Therefore key links have to be established on the national level with the Government office for structural policy and regional development and with Regional development agencies on the regional level.
C. For the activity of physical and urban planning a national programme of integrating institutions into EU planning funds, programmes and initiatives has to be created. The responsible department is the Ministry for environment, planning and energy, while the Chamber for architecture and space and the Town and spatial planning association of Slovenia can provide support.
D. The levels and institutions responsible for particular levels have to be defined. The country as such is the responsibility of the department (Ministry for environment, planning and energy), but also organisations involved with physical planning (Chamber, Association etc.), while the twelve statistical regions are the responsibility of Regional development agencies, which are, according to the law on balanced regional development, responsible for physical planning.
E. Education institutions dedicated to professions involved with the inter-disciplinary field of physical planning should integrate knowledge about »European physical planning«.

Finally, the Chamber for architecture and space will have to stop acting as a foster mother to physical planners. We mustn't forget that it includes three equal professions, academic disciplines and practices: architecture, landscape architecture and physical planning. The fact that there are seven times more architects and one third the number of landscape architects, than there are physical planners, is essentially irrelevant.

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Alenka FIKFAK

Development of spatial laws – changes in spatial management of suburban settlements

1. Introduction

Legal-administrative measures are those, which should aid more »suitable« spatial management. These measures are general and based on knowledge about space. They are conditioned by a simple fact: when people lived their whole life cycle in a limited space, they carried with themselves all knowledge about the space – natural conditions and spatial changes; with loss of dependency on land and nature and removal from the essential relations in space, the need by individuals and society of limitations, norms and provisions, which should direct living, increased. Recognised development factors, such as durability and stability, safety from fire, hygienic, medical and environmental protection, safe use of buildings, protection from noise, rational use of energy, are all starting points for quality in spatial management and construction of buildings, as well as for the establishment of normative instruments. Because of changes occurring in contemporary society they should be set flexibly and appropriately to quick changes. This should also be the basic rationale of the new Law on spatial management (LSM) [1]. In these changing times, much more than before, stimulating, un-compulsory development instruments will have the advantage.

2. The twentieth century until the end of the 2. World War

»We cannot speak about direct effects of buildings laws in the countryside, either in the form of fire codes or later building codes, until the late 19th century« (Lah, 1994, p. 88). The primary layout of settlements wasn' t planned in the contemporary legal-formal sense of physical planning. »However, builders are always respectful – even without legal plans – for the disposition of a building, sunlight, street grid, defence capabilities, trade, social contacts and numerous other circumstances for rational, economic and aesthetic design of ones living and working environment« (Pogačnik, 1999, p. 47). By the late 19th century building orders were adopted by all provinces, which were part of the Austro-Hungarian monarchy, in which were »written« all until then respected unwritten norms and measures, thus replacing fire codes.

The building order of the Duchy of Carniola from 1876 [2] was a general act, which didn' t provide concrete solutions pertaining to particular sites. The building order contained technical regulations concerning construction, while principles for positioning buildings were short and lax. The building line and ground-floor level were the main instruments. Regulations about dimensions were accurate but non-obligatory and were mostly applied to fire safety, e.g. »The kitchen floor, entrances to stables from kitchens: The

kitchen floor under the fireplace and near open fires in the fireplace has to be paved with fire resistant materials in a diameter of at least 13 dm and 7 dm around cast iron cookers. Entrances or passages to barns and other agricultural (out-houses) buildings from kitchens are unconditionally prohibited« (Building order, 1909, pp. 22-23). The law doesn' t offer recommendations, but does obligate builders to follow precisely defined administrative hierarchy.

The building law of the Kingdom of Yugoslavia from 1931 [3] contained certain provisions dealing with urbanism. Correct technical elements were demanded in detail. It gave the basis and demand for regulation plans and for determining land use. Regulation plans improved transport and utilities, but also became an instrument of the ruling classes (manipulations with land and building rights). »Despite regulation the old practice of ruthless subdivision of plots and uncontrolled development persisted« (Pogačnik, 1983)
Some authors define this law as a »modern law that is respectful to achievements of civilisation and findings that are still valid today« (Prelovšek, 1988, pp 3-10).

3. The twentieth century after the 2. World War

In the immediate post-war period there were no new laws dealing with physical planning. The most important legal basis, which enabled wide-scale building of factories, homes, roads and agricultural cooperatives was the »Basic law on expropriation« adopted in 1947. The state maintained the decisive role in urbanism and building. In 1958 the provision on building areas was adopted.
A breakthrough in the development of law was achieved in 1967 with the »Law on urban planning and regional planning«. For the first time in Slovenian history urbanism integrated all the territory, since »urban planning programmes cover the territory of all communes (municipalities)« (Fikfak, 1997, p. 80). Even then the law directed building into urban areas and prevented spatial dispersion of detached family homes in the suburbs. [4]

The law on urban planning adopted in 1967 [5] was positioned in a hierarchy of laws, thus it was subsidiary to the Law on regional spatial planning and superior to the Building law. For the first time spatial management was dealt with comprehensively. A new series of documents was introduced. The urban planning order was intended for defining methods of dealing with reconstruction of settlements, land use and utilities on building sites, conditions for buildings with respect to position, height and design, size of building plots and conditions that the investor should meet concerning building or developments that affected spatial changes, i.e. »When determining land use one has to bear in mind that only agricultural land with lesser productive value should be intended for building« (Prelovšek, 1988, pp. 3-11).

4. Planning legislature in Slovenia, 1984

In 1989 the Law on the system of social planning and the social plan of the Republic of Slovenia was scrapped, but the system of spatial management remained the same until recently. Until the adoption of new laws about spatial planning only the so-called spatial components of social plans remained valid. During this transitory phase management of settlements wasn' t very efficient in providing quality environments. Certain deficiencies of the system became unsurmountable, which were manifested in space as increasing dispersal and poor mastering of the »illegal building« phenomenon. These deficiencies were: low share of organised housing development, lack of comprehensive urban planning documents and inadequate distribution of resources gathered with the building land levy.

In the past the political structure in Slovenia was disinclined towards detached housing, thus indirectly affecting the establishment of organised, planned types of housing cooperatives. »In the field of housing and urban development policies we officially propagated only the building of multi-flat housing in socially directed building, which was positioned in compact settlements, while we refrained from allowing the people to build detached single-family homes as private property – even in areas with finer settlement patterns. Although such desire was professionally, morally and politically condemned, the authorities tolerated them, so that by the mid-sixties the share of privately owned family homes, conditioned by favourable loans granted by the state, exceeded the magical limit of 50 % of all housing production« (Gabrijelčič, 1996, p. 81). Individuality was gaining in favour and was manifested in increase of detached single-family homes. At first it appeared as an existential necessity, the only possible solution for solving ones housing problem and later as a type of social life. Even because of complicated procedures, which were never truly accepted in the countryside (individuals understood landownership as a sovereign right, i.e. on my land I can do whatever I want), **illegal buildings** appeared as individual buildings. They are a thorn in the side of spatial management since they prove that, at least from the aspect of the individual, spatial needs can be met even without plans, spontaneously and without rightful or responsible bodies. »Local factors are legitimate parts of decision-making about new developments, however local sensibility often offers space even for other, entirely individual desires, which in expert assessment cannot have equal values to expert estimates or wider public interests« (Gruev, 1998, p. 59).

In 1993 a law was passed, with which the state tried to encompass all developments, which had occurred in space until then [6]. The law in conjunction with other laws stipulated that for any building, installation or other development, which permanently changes land use, living and working conditions, ecological balance in nature or landscape features etc., it has to be granted a location and building permit, or a unified permit. Any location or other permit for development has to be justified in planning acts.

The **Law on spatial management** [7] defined basic conditions for development. The provisions dealing with settlements focused mainly on conditions for new development, which were directed into development areas of settlements whose functions served wider gravitational areas and whose natural circumstances and transport connections provided the rationale for further development (article 17). The law also gave guidelines for the development of activities, defined land use and compulsory spatial components of long- and mid-term plans.

The **Law on management of settlements and other spatial interventions** [8] stipulated contents and procedures of implementation planning acts, which were detailed docu-

ments intended for spatial management on the municipal level. These were divided into Spatial development plans (building, design and location plans for new development and renewal) and Spatial planning conditions (for management of areas were spatial development plans weren' t proscribed or were adopted in the previous planning period).

The **Law on building land** [9] had a significant position in the hierarchy of laws, since it was the law, which translated »paper concepts« into reality: from the adoption of a spatial plan to the beginning of construction of particular objects a myriad of activities have to be carried out, such as obtaining, preparing and equipping (with utilities) building land.
»The programme of equipping building land has to be understood as one of the main regulation mechanisms, by which the local community can achieve that all investors of technical infrastructure will meet on the same site – or better still – on time, and that all formal, financial and material conditions will be met before construction begins« (Rakar, 2002, p. 74).
Equipping land in the construction-technical sense implies the building of objects and devises of technical infrastructure (utilities, transport, communication, energy). Based on these activities, which in the financial sense in fact represent investment of capital in a place, land changes from agricultural to building land, which is the precondition for building.

The **Building law** [10] and its integral part, the Code on minimal technical conditions for building homes and flats, determined minimal technical conditions for defining their surfaces, dimensions and the sequence of spaces, thus indirectly also the living culture [11]. Such regulation didn' t allow freedom of choice in decision-making, nor the possibility of developing new dwelling types in the sense of flexible or open layouts, whereby all spaces could for example be joined in one common space with flexible partition walls that are part of the interior design.
If we want to plan rationally, adequate planning-urbanistic laws, founded on expert guidelines and spatial solutions are not enough. Measures have to be devised that can enable faster and harmonious [12] (and not necessarily precise) implementation of adopted plans.

5. Changing laws concerning physical planning

With the acceptance of market economy in 1989 the former economic system was replaced. »Since then numerous processes, important for physical planning have occurred: issues stemming from social property, emphasised ownership of production means and capital, increased importance of private property etc« (Konečnik Kunst, 2001, p. 9). These facts brought about completely different circumstances and conditions in spatial management, but the system had to be functional and operational. Since then the new Slovenian planning laws have been in »labour«.

The new **Law on spatial management** [13] deals with contents, which were contained in three former laws, namely the law on spatial management, the law on management of settlements and other spatial intervention and the law on building land. Its' main principles are (after Vladimirov, 2002):
- Clear distinction between responsibilities in physical planning and permitting of particular developments, between the state and local communities (the municipality as the basic self-governed community);
- Preservation of proper hierarchy of acts in spatial planning (new definitions for acts and simplified communication between spatial management levels);
- Defined clear structure of planning acts with a system of distinctions between norms and projects themselves. An explanation of planning acts is introduced (project contents – permissions and prohibitions as the normative part, which is also an aid and added guidance for implementation of the act);
- Achieved greater development dynamics and flexibility of planning acts with the introduction of a special form of regulation plans (according to the former terminology, this is the spatial development act) with the character of a project – programme (spatial measure – municipal prepurchase right, expropriation and various compensations);
- Ensured greater care by the state and local communities for positive and guided development of spatial structures, especially settlements (the term settlement development area has been introduced, which is a territorial reserve for long-term development of the settlement, in which the primary land-use is maintained until the adoption of suitable planning acts);
- Initiatives for planning and execution of planned developments are legitimate incentives for changes (amendments) to planning acts (whatever the validity of the document);
- The permitting procedure should be more transparent and rational than the former one.

The law maintains the location permit, in which all planned developments based on the location plan and tied to pubic interest should be checked and the administrative procedure carried out (demands by planning subjects, possible opposition by neighbours etc.). The building permit, which isn' t the subject of this law, is replaced with the revision of building plans. LSP should provoke more attention to directing settlement unto building land, in the sense of their revitalisation and re-cultivation, as well as directing new settlement to abandoned agricultural and forest surfaces: »when directing settlement growth, at first vacant and insufficiently utilised surfaces in settlements should be used by their reactivation with renewal and clearing of degraded urban areas in settlements« (article 4). The expansion of settlements is a necessity, with respect to technical and technological characteristics of proposed spatial developments, but as a rule it should be directed to land, which is less important from the aspects of preservation and maintenance of natural resources and preservation of natural and cultural values. Expansion is also allowed for functional completion of areas with complete utilities.

6. Conclusion

Development processes in physical space are however not solely affected by laws themselves, but above all and mainly by their implementation. Previous laws influenced the creation of present spatial realities, which are seen by some as threats to the system' s stability, and by others as qualitative intertwining of all spatial processes. In this context one can see the issues of cultural heritage, which has been degraded intensely because of lacking protection provisions. »During procedures for declaring monuments as

heritage, the opportunity for declaring whole influential areas as heritage, instead of particular buildings themselves, was lost. Thus the possibility for protection or rehabilitation of whole areas was also lost.« (Čok, 2002:71)
Between extreme positive/negative visions, there are numerous intermediate ones. The direction we take in the near future will show results soon enough...

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Notes

[1] ... which »promises« that the »procedure of obtaining building permits will be more transparent and rationale than the present one«, however the problem of realising new principles and negotiating these with physical phenomena (adapting administrative institutions and devising new planning concepts) remains.

[2] Building order for the Duchy of Carniola excluding Ljubljana = Bauordnung : für das Herzogtum Krain mit Ausnahme von Laibach, »Učiteljska tiskarna«, 1909, Ljubljana.

[3] Official bulletin of the Kingdom of Yugoslavia (Službene novine Kraljevine Jugoslavije), 16th June 1931, No. 133

[4] Including urban periphery, which has under the influence of dispersal become undistinguishable and is often defined as an »in-between« space.

[5] Law on urban planning, Official bulletin, No. 16/67.

[6] Law on changes and supplements to the law on management of settlements and other spatial interventions (' illegal builders law, Official bulletin, No. 18/1993).

[7] Law on spatial management, Official bulletin, No. 18-930/84, 15-703/89, 71-2581/93.
Law on planning and spatial management in the intermediate period, Official bulletin, No. 48-2309/90, 85-3805/00.

[8] Law on management of settlements and other spatial interventions, Official bulletin, No. 18-931/84; 37-1515/85, 29-1427/86, 26-1322/90, 18-818/93, 47-1824/93, 71-2581/93, 29-1356/95, 44-2416/97, 9-530/01.
Law on supplements to the law on management of settlements and other spatial interventions, Official bulletin, No. 71-2581/93.

[9] Law on building land, Official bulletin, No. 44/97.

[10] Building law, Official bulletin, No. 34-1605/84, 71-2581/93, 29-1356/95, 59-3393/96, 45-2192/99, 42-1965/00 – Judgements by the Constitutional court No. 52-2448/00, 52-2451/00.

[11] For example: rooms intended for sleeping mustn' t be transitive (article 16) or the entrance doorway to a flat must be at least 80 cm wide and be equipped with a security lock and viewing aperture. The door must be sufficiently noise-insulated and burglar-proof (article 13).

[12] Sometimes during implementation of adopted documents, new spatial realities come forward that affect minimal changes to the valid document. The law provides for negotiation of these changes by initiating the whole adoption procedure again. This implies a lengthy passage of time whereby nothing can be built in a certain area (sometimes lasting for years and not only several months). Hereby other measures are also applied, above all involving taxation, property and housing policy and inspectorates.

[13] Law on spatial management (official bulletin, No. 110/2002; the system includes the new Building law, Official bulletin, No. 110/2002; both were published 18. 12. 2002, with legal validity beginning 1. 1. 2003).

For sources and literature turn to page 31.

Illustrations

Scheme 1: *The planning system valid until December 2002 (Gabrijelčič, Fikfak, 2002, p. 55)*

Scheme 2: *The planning system (municipal spatial management) according to the new law (Šantej, 2001)*

Frame 1: *Where and how building will proceed was at first managed by informal control, whose conduct wasn' t specified in written commands or prohibitions. Later written law appeared: city statutes, state laws and other regulations, legally binding plans. The mechanisms of informal control were, above all, habits, customs, tradition, symbols and the locale (Fikfak, 1997, p. 77).*

Frame 2: *The essence of the law is that in the permitting procedure, decisions concerning the site can be taken. This unified procedure is possible only in »less demanding« areas, with a proscribed urban planning order – i.e. rural areas. Despite the stated that urban planning orders enable unified location and building permitting procedures in »settlements and areas, which haven' t been covered with urbanistic plans or building plans«, it initiated a definite schism between decision-making about urbanism and building and vice versa*

Frame 3: *One of the more important functions of the urbanistic concept is the definition and argument for development areas of settlements.* ***Development areas of settlements*** *are instruments with which the lawgiver is trying to stop dispersed settlement and to concentrate development in compact settlements. The mechanism is as follows: a certain area, protected as agricultural or forest land by appropriate laws, can be changed into a* ***settlement area*** *(i.e. part of the settlement) in the municipal planning order only if the area was predefined as a development area in the urbanistic concept. The urbanistic concept has to argue and prove, why the settlement has to develop on existing agricultural land or forests (Šantej, in Zupančič et. al., 2002).*

Frame 4: *An interesting occurrence was the proposal to change the name of the law from »Law on spatial management« into »Law on spatial order«, which would emphasise the significance of uniform rules in spatial management or physical planning and ensure better spatial order. The term order has been rediscovered.*