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NORWAY

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I. Constitution, government, and administration of Norway

1. Constitutional System

1.1 General description and key data of the constitutional system

The Kingdom of Norway covers 324 000 sq. km land area excluding 63 000 sq. km belonging to the Arctic archipelago of Jan Mayen and Svalbard (Spitzbergn). Totally 4 700 000 (2007) inhabitants populate the area of the country.

Three basic principles are integrated in the constitution of this state:

(1) The *Principle of Sovereignty of the People* underlines that the people of a nation are entitled to govern themselves. People's will should, through the election of representatives, determine the action of the governing power as these representatives in governing power should govern on behalf of the people. The electoral system is based on the principle of direct election, proportional representation and voting by secret ballot. This ballot is a vote for a list of representatives from a political party. The names on the party list are candidates representing the particular party within one constituency. There are 19 Counties under the municipal division, subsequently named County Municipalities, which constitute these constituencies. Candidates on the party lists have been chosen on the nomination conventions of each party. Elections for the Parliament (Stortinget) of totally 169 seats or

elected members take place every forth year. Of the total number of seats 150 constituency representatives are elected while another group of 19 representatives are distributed equally after the election according to number of votes. One political party must have at least 4 per cent of the votes in order to obtain representatives of the first kind. Outside the general election year there is no opportunity to call for a new election or to dissolve the assembly of the Parliament.

The Principle of Sovereignty is the leading principle behind the particular rights of the Saami people to participate in matters concerning their own language, culture and social life. In 1987 the Saami Parliament was established according to the Saami Parliament Act. This law extended the civil rights of Saami population to take part in public decisions regarding the customary rights and interests of this group of Norwegian citizens. The Saami Parliament replaced the former Norwegian Saami Board. It consists of Saami elected representatives politically nominated from the Saami population according to the registered Saami electorate for the whole country. However, the constituencies of this electorate are delineated differently from the constituencies of the national parliament, due to the number of Saami inhabitants, their systems of local rights and the division of Saami languages.

There are in total 13 constituencies, of which 6 in Finnmark County and 3 in Troms County. The border of the South-Saami Constituency includes two counties (North- and South-Trøndelag) and municipalities from two other counties, Nordland and Hedmark. The rest of Nordland County comprise 2 constituencies and the main part of the South-Norwegian land area another one. There should be 3 representatives from each constituency. In addition 4 representatives from the 4 constituencies having gained the largest number of votes are distributed to the total number of 43 seats after the election.

The right to vote for the Saami Parliament has everybody who has the right to vote for municipal elections and is registered in the Saami electorate of the actual constituency. Election for the parliament takes place every forth year on the same day as the ordinary election for the National Parliament. The free right to organize political parties guarantees the Saami population to establish their own political parties. Should there be more than one list of electives within a constituency to the Saami Parliament the number of representatives are calculated according to the amount of votes for each list.

(2) The *Principle of the Separation of Powers* distinguishes between three categories of powers, which in terms of government should be acting independently of each other in order to keep checks and balances:

- The legislative power together with powers in matters concerning financing and planning of the State activities belong to the Parliament.
- The executive power is under the rule of the Government, or initially of the King. A parliamentary system is practiced. In principle a majority of seats in the Parliament decides who will be in a position to establish a new Government. In reality it means that a sitting Government can continue to rule as long as it is not formally opposed by a majority of seats in the Parliament.
- The judicial power is a part of the government system and belongs to the courts.

(3) The *Principle of Human Rights* comprises the rights of freedom of speech, freedom of worship, freedom of assembly and the rule of law. Since the Saami language is recognized as equal to Norwegian, the Saami population has the right to express themselves in their local language and should have duly answers in their own language, whether in legislative, executive or judicial matters.

1.2 History of the constitutional system

Due to constitutional conservatism no major formal revision of the Constitution has taken place since the enactment in 1814. However there have been amendments and some articles are changed. Besides, changing of political practices and the enactment of other laws and regulations have contributed to the practical understanding of the Constitution in the government of the nation. The most far reaching changes occurred during the union period with Sweden between 1814 and 1905. At least three categories of changes should be mentioned:

Parliamentalism saw its breakthrough in 1884. Since then a parliamentary system is practiced although not formalized in the constitution. The outgrowth started with the political struggle of the emerging middle class and landowners against the government of officials and representatives of the King. At the end of 1860s the political opposition (in main liberals of various economic occupations and farmers) had achieved majority in the Parliament, and acted with greater unity than before. Although the conflict to some extents was rooted in struggle for power in the society, the whole constitutional discussion was limited to the right of the King's cabinet ministers representing the executive power to participate in the proceedings of the Parliament. Should the opposing representatives in the Parliament succeed in their demands, the constitutional consequences would be of two kinds. First, the principle of separation of the Parliament's legislative power and the King's executive power, as originally understood in 1814, had to be abandoned. Second, there would be a need for limiting the King's executive power, as he no longer could be free to choose his advisers.

The conclusion was that the cabinet government by the King's officials was ended and replaced by ministers who were real politicians. A new constitutional principle had emerged. Furthermore the conflict led to a new political order. Both the Liberal Party and the Conservative Party, the first modern political parties in Norway, were founded in 1884.

Another characteristic of the constitutional changes is connected to the development of political rights and human rights. The rights to participate in politics have gradually been extended from an electorate narrowed by individual specifications relating to economy and sex, to an electorate that is only limited by age for the holders' of Norwegian citizenship, or for foreigners of due age, the right to vote. Men were given the general right to vote in 1898, women in 1913. In 1814 the freedom of worship did not include groups like Jews and Jesuits who were not allowed to enter Norway. For the former group the ban was revoked in the early 1850s, for the latter in 1956. Still the Constitution defines the State's official Religion, which is Evangelical Lutheran. Understood as a general right to express individual interests, the right to speech has gradually been extending, and as a consequence, the right to have access to relevant and valid information.

The municipal system of local and regional government has traditionally represented a counterpart to the state system when it comes to the production of local and regional infrastructure and public services. In terms of political power and organization for the management of public resources, the municipal system of government is also a decentralizing counterweight to state government. In reality it means that the democracy of the nation has to be realized both through a parliamentary system at central government tier and a municipal system of self-determination at local and regional tiers. Whether local or regional government, and accordingly the Municipality or County Municipality respectively, is mentioned in the Constitution. From its first years there were political interests to democratize the local government system and replace the government of officials with politically elected representatives. This movement was obviously a consequence of an improved educational system and of the enlightening ideas that awakened the political consciousness of the population in general. In 1837 the adoption of the Aldermen's Acts introduced the elective origin of the modern Norwegian municipality; the principle of local self-government based on elected councils and statutory committees. In addition, this local tire reform gave strong arguments for the democratization that later on should take place at the central state tier and hence the introduction of the parliamentary system.

1.3 Main specifics of the constitutional system

The Parliament

A recent revision of the Constitution has changed the two-chamber organization of the Parliament, the Odelsting and the Lagting. These changes will be working from Oct. 1st. 2009. Until then the existing order originating from 1814 will be continuing. When a Parliament first convenes following an election, it elects one quarter of the representatives to serve as members of the Lagting. The remaining three quarters of the representatives become members of the Odelsting. Each of the elected representatives serves on one of the 12 permanent committees. In addition there is an enlarged committee on foreign affairs. Most of the matters presented to the Parliament and the Odelsting for plenary discussions are deliberated and prepared by these standing committees. Together with the party groups, the permanent committees are the most important arena in which the real decisions on current matters are being made. One important criterion for addressing particular tasks to one or several specific committees is that this or these committee(s) deals(-) with matters originating in the ministry of the same or similar name as the committee(s) of the Parliament. For instance Environmental protection and regional planning can thematically be submitted to the standing committee on Energy and the Environment, referring to the Ministry of Oil and Energy and the Ministry of Environment respectively. Local government administration, regional development, housing, building and construction will in most cases belong to the standing committee on Local Government referring to the Ministry of Local Government and Regional Development, while transportation should be under the standing committee on Transport and Communication referring to Ministry of Transport. Two or even more committees can be responsible for preparing one particular matter. Thematically there will regularly be some discretion behind the submitting of tasks to the different committees.

The responsibilities of the Parliament in matters of legislation, state budgeting and governmental supervising decide more or less its internal working procedures:

(1) A *legislative procedure* starts when the Government introduces a bill formalized as a proposition to the Odelsting. This proposition is the product of an exhaustive preparatory process that normally begins with the appointment of an expert committee who prepares a report including a proposal on the legal subject. It ends with targeted hearings and final approval by the King in Government Council Meeting, or shorter King in Council. After receiving the proposition the Odelsting submits it to the appropriate standing committee(s). The committee considers the proposition and prepares requirements and justifications in the form of a recommendation addressed for the Odelsting debate. If the Odelsting accepts the recommendation, eventually with amendments, an Odelsting resolution is prepared for

deliberation in the Lagting. If approved, the resolution is again sent to the King in Government Council Meeting, which has to sanction the adopted resolution before it becomes valid law. There are several variants of this more or less idealized procedure depending on the character of the matter. The conclusions of the expert committee and the outcomes of the discussions in the standing committee (s), in the Odelsting and in the Lagting are important factors in this regard. When the recent revisions are coming into force in 2009 the handling of legal matters within the Parliament will be changed. New law proposals should then be directly introduced to the Parliament, either by members of the Parliament or by the Government through the minister in charge.

(2) The *fiscal budget procedure* starts after the Parliament convenes in the autumn when the Minister of Finance on behalf of the Government appears to present the budget proposition in his Budget Statement for the coming year. This proposal for the Fiscal Budget allocates resources to activities within all sectors of the State system, including state sectoral planning. Before submission to the Parliament the budget proposal has undergone an extensive preparation in which all governmental entities and administrations of this system have been involved. The Government's budget proposal receives the official approval in the King in Government Council Meeting, whereupon it is submitted to the Parliament as Proposition No. 1. In the Parliament, the Working Procedures Committee, which comprises the Presidium, the chairmen of standing committees and the party group leaders, is responsible for assigning the various budget chapters to the appropriate standing committees. This committee sets also the deadlines for the completion and return of the budget recommendations by the standing committees. The standing committee on Finance and Economic Affairs coordinate the fiscal budget proceedings and presents a recommendation concerning the National and Fiscal Budgets, with a proposed resolution on budget limits for an appropriation in accordance with the spending program laid down by the Parliament. This resolution on the budget's limits is binding for the subsequent considerations of the budget. A plenary budget debate in the Parliament is concluded by a vote on the proposals submitted in the recommendations. The amounts for all the separate spending programs are fixed collectively in a single resolution. When the standing committees later on make their recommendations concerning spending programs allocated to them, they can only make reallocations within the decided budget limits. These final budget recommendations of the standing committees should be considered by the Parliament at latest by Mid-December. The Parliament's power in fiscal matters includes the authority to place funds at the disposal of the Government and even order such expenditures. In general the representatives of the Parliament have fairly wide opportunities to order expenditures and initiate items for the Fiscal Budget.

(3) Finally, the Parliament has the *mandate to supervise* the Government and the public administration. Some of the duties originating from this mandate are mentioned in the Constitution, like the authorities to examine the Records of the Government Council Meetings, to review treaties concluded with foreign powers and to audit state accounts. Others are not formalized in the Constitution but follow more or less as a consequence of the political accountability of the Government to the Parliament, and the necessity to inform and communicate through mass media, particularly in relation to the Parliament's control over public administration. Parliamentary debates, questions and interpellations regarding executive matters are public accessible arrangements that give the Parliament opportunities to review and evaluate Government policies. A particular kind of control is exercised through the Ombudsman who is an official appointed by the Parliament. The duty of the Ombudsman's office is to ensure that individuals do not suffer injustice at the hands of the public administration whether the central or decentralized state, or within the municipal division. Annually the Ombudsman gives account to the Parliament.

The mandate of the Saami Parliament comprises matters of interests for the Saami population. It is up to this parliament to define its matters of interests. Such matters of interests provided, the Saami Parliament is entitled to raise questions, undertake investigations, and give its opinion and present proposals to public authorities as well as private organizations. Authority to administer budget items connecting to Saami purposes in the Annual Fiscal Budget of the State is delegated to the Saami Parliament. The Government decides rules and regulations for the financial management of the Saami Parliament.

The Government

The establishing of a new Government will either take place after an electoral defeat or after a majority vote of no-confidence in the Parliament. Most commonly the Prime Minister of the defeated or no-confidence Government will be in a position to consider the political situation and propose his or her candidate of succession. Alternatively, the King or the President of the Parliament can undertake considerations for a candidate to set up a new Government. The leader of the party who is able to achieve support from the biggest number of seats, majority or not, to the program for a new government will normally be the accepted candidate for the prime minister position, and can, if he or she accepts, start appointing ministers to the Government. In addition to the Prime Minister, the Norwegian Government should consist at minimum of 7 ministers. At least 50 per cent of the Government members should be members of the State Evangelical Lutheran Church.

After WWII the number of ministers in the Government, and as consequence the number of ministries, has gradually increased. In the Government, the politically appointed positions consist of the ministers, secretaries appointed for each ministry and advisers to the ministers. Currently there are 19 ministers, including the prime minister, and 17 ministries in the existing Government. Responsibilities for planning and building according to the Planning and Building Act are divided between the Ministry of Environment and the Ministry of Local Government and Regional Development. The fields of pollution, natural protection, cultural heritage and planning belong to the former ministry, while housing, regional development and building permitting belong to the latter. Public works belong to the Ministry of Government Administration and Reform.

Officials within each Ministry are responsible for the preparation of matters for decisions in the Government. Their political constituencies decide proposals for discussions or decisions. Meetings for organizing decision-making of the Government are of two kinds:

Originating from practical needs, the members of the Government meet regularly twice a week to discuss prioritized political issues. As in any collegial meeting of the Government, these Government Conferences are coordinated by the Prime Minister's Office and led by the Prime Minister. The constitutionally important meeting however is the King in Government Council Meeting.

Although decisions taken in Government Conferences are political binding for the members of the Government, they are not valid as formal conclusions. The mandate of the Government for making conclusions in a particular matter is either executed within each Ministry in the hands of the Minister or within the King in Government Council Meeting. It means that the discussions in the Government Conferences have to be completed through final conclusions in the Ministries or through the collegiums of ministers in the King in Government Council Meetings. The Parliament is the sole legislative body, but the Government is empowered to issue subordinate legislation. According to the Planning and Building Act both ministries in charge are entitled to issue subordinate rules and regulations as supplementary legislation to this Act.

The Government addresses the Parliament through three different kinds of bills: propositions to the Odelsting in legislative matters, propositions to the Parliament when asking for a non-legislative decision and finally reports or white papers for discussions.

Norway is a monarchy where a king or queen is the formal ruler of the state. This ruler is exempted political power. In main the responsibilities of the monarch are of symbolic, ceremonial and representative character. The regular executive duties are limited to the proclamation of a new Government that takes place in a particular council, the declaration of the annual opening of the Parliament and finally to the presiding of the King in Government Council Meetings.

The Courts

The judicial authorities are organized in the Supreme Court, Courts of Appeal and District Courts or City Recorder Offices. Some special courts like the Land Court and the Labor Court exist. All courts are territorially delineated to a fixed area of jurisdiction. There is no Constitution Court or Administrative Court in Norway.

1.4 Fundamental principles of the political and the administrative system

The central state

The central state administration comprises officials in the role as secretaries in the Parliament and in the Government. Additionally the external state officials are employed in directorates and inspectorates.

The administration of the Parliament is organized in one constitutional office under the secretary general and in four separate departments: the General Service Department, the Administrative Affairs Department, the Information and Documentation Department and the International Department. In the Government the officials are divided between the actual Ministries and their preparation of matters for the Government that takes place under the formal leadership of the respective ministers.

Ministerial officials will only to some extents cover the Government's need for professional expertise. Directorates of different kinds are therefore an inseparable part of the central state administration. In addition to responsibilities concerning competence and advisory, the directorates are also mandated with authority related to monitoring, control, regulation, licensing and, within some particular fields, to the allocation of resources. There is no directorate responsible for planning and building. To the degree central state authorities will need external competence within these fields, they have to ask universities, applied research institutes or consultancies for support. In matters of authority they have to rely either on the decentralized state authority, the County Governor, for monitoring, control and to some extents licensing, eventually on the county municipalities or the municipalities for other executive duties and regulations.

The inspectorates are in main mandated with authority to monitor and control the rule of public laws and standards. Due to their role as inspectorates, they have an advisory role towards the ministries. As for the directorates, their advice is not political binding for the minister whose final decision will be based on political discretion. Directorates and inspectorates are ruled according to particular regulations, which decide their mandates, organization and order of decision. Their budgets are decided in the Parliament as a part of the Fiscal Budget and the respective ministries will have the authority for giving more detailed recommendation for the allocating of resources and spending.

The decentralized (regional) state

Except for the courts, the decentralized state is divided between two kinds of territorial or regional units, the State County and a partition that might be named Regionalized state sectors. The latter consist of several sectors under the rule of different ministries, each representing a decentralized state authority but without any unifying territorial jurisdiction.

Norway consists of 18 State Counties; each under the rule of a County Governor who represents the authority of the State within the county to the degree no other public authority will be responsible. The position as County Governor is based on personal application and appointment by the Government (in the King in Government Council Meeting). There is no time limit of the working period. The County Governor, responsible for regional activities overlapping the authority of several ministries, is under rule of the Government. This authority represents the central state at regional level in situations where directorates, inspectorates and, in certain aspects, state sectoral authorities are involved. Beside the authority of legal control in different matters, the County Governor has the mandate to monitor and coordinate regional and local activities towards national policies relating to pollution and natural resources, regional and local planning. That applies for state, county municipal and municipal activities. Moreover, the County Governor monitors other municipal activities of which the control of municipal fiscal budgeting and accounting is of particular importance.

It follows from these mandates that the County Governor is in a key position for coordinating between state planning policies and municipal planning. Accordingly, the County Governor should support the County Municipality in organizing cooperation with state sectoral authorities in county planning processes. Furthermore, disputes resolution towards planning on local level is one particular duty, either in terms of mediating or handling of complaints.

Lastly, the County Governor has also a certain advisory role, mainly in legal planning matters towards the State sectors, the County Municipality and the Municipality.

The Regionalized state sectors are mandated for their activities within jurisdictions covering several state counties, like the Public Health Regions, whose main responsibility is the running of public hospitals, and the Road Authority Regions responsible for planning and management of state roads. These units are organized as public corporations with a separate board and director general. Besides such territorial constructs, some of the directorates and inspectorates as other State organized activities operate decentralized under regional and even local offices. Their territorial divisions are usually different from the previous ones, although their territorial delineation normally will follow state county borders.

The municipal division

The municipal division is divided into two political-territorial levels. The Primary Municipality, usually named the Municipality, is the local, i.e. lowest public administrative tire. All together there are 431 municipalities whose territories cover the Norwegian main land with costal islands in continuity. On an average a Norwegian municipality hosts 10 766 inhabitants, cf. Table 1.

Table 1. *Population in Norwegian municipalities by range.*

Characteristics	Population range						Total
	< 2 500	2 500-9 999	10 000-19 999	20 000-49 999	50 000-100 000	100 000<	
Population	200 106	1 022 885	812 988	963 603	480 370	1 160 267	4 640 219
Number of municipalities	131	197	57	33	8	5	431

Source: SSB, 2006.

The County Municipality represents the regional municipal tire, averagely populated by 244 222 inhabitants, cf. Table 2. Totally there are 19 county municipalities whose territories are in congruence with the 19 election constituencies. 17 county municipalities are identical with 17 out of the total 18 state counties. Two county municipalities, comprising the capital of Oslo and the main surrounding metropolitan area Akershus respectively, constitute one state county.

Table 2. *Population in Norwegian county municipalities by range.*

Characteristics	Population range				Total
	<100 000	100 000-199 999	200 000-400 000	400 000<	
Population	72 937	1 193 185	1 881 950	1 492 147	4 640 219
Number of county municipalities	1	8	7	3	19

Source: SSB, 2006.

Municipal elections, both for the local municipalities and the county municipalities, take place every forth year. In Norway there will then be an election every second year, shifting between municipal elections and national state elections for the Parliament. In the municipalities, whether Municipality or County Municipality, the Municipal or County Council correspondingly represent the highest political authority.

In Finnmark, the County Council is given a special mandate concerning the customary rights and interests of the Saami population. This county is the core area for traditional Saami activities related to the use of land and water and most of the land area is in public ownership. In this regard, the county council will have to strike a balance between the interests of the Saami population and other interests, and at the same time safeguard the interests of this population in relation to their customary rights for the utilization of natural resources.

It is up to the municipalities themselves to decide whether the government should be organized in an aldermen's system or a parliamentary system. Under an aldermen's system the Mayor is the coordinating leader of the Council and the Body of Aldermen as well. In the latter system the Executive Council, as in parallel to the State Government, consists of councilors (ministers) who are leaders of the different municipal sectors under the coordinating leadership of a Municipal Executive Councilor.

During the latest years the parliamentary system has gained ground in the biggest municipalities as well as in counties. A substantial proportion of municipal politics is exerted through different committees. Law mandates some of these committees, like the Standing Committee for Planning Matters, responsible for local planning and permitting in the Municipality. This applies regardless of political and administrative organization.

Additionally, municipalities can establish committees as a majority of the politicians finds it suitable. A management office under the leadership of a chief municipal administrator heads the municipal administration. In a parliamentary system the coordinating and leading role of the chief administrator is normally in the hands of the Commissioner of Finance. Officials working in the different municipal sectors are usually serving as secretaries for all the political units, whether of County Municipality or the Municipality. The municipal division's freedom to organize and structure their authority also applies in planning and building matters. The Municipality can delegate the authority and responsibilities of the Municipal Council, except when explicitly stated as for its role in the issuing of (legal) articles of association, in the acting as municipal planning authority, in the handling and considering of statutory plans, in matters of expropriation and in stipulating fees.

Although the Municipality is an executive construct, it is given certain legislative authorities, especially in matters of planning and permitting. A municipality can adopt articles of association for the whole or a part of the municipal area. Such bylaws can modify provisions of the Planning and Building Act, add to or exempt from these provisions, or make them more restrictive, unless otherwise provided. However, the authority to issue articles of association is limited to specific sections and formulations. For instance the provisions of this Act concerning expropriation and compensation can not be departed from to the detriment of a landowner or a holder of rights. The Municipal Council adopts such articles. Amendments or repeal of articles of association shall be completed in the same way.

Furthermore, the Municipality has on specified legal conditions and after application, the authority to grant dispensations permanent or temporary from provisions in the Planning and Building Act, by-laws or regulations, when there are special reasons for doing so. For all the statutory local plans, the land use part of the municipal master plan, the zoning plan and the building development plan, this authority to exempt is assigned to the Standing Committee for Planning Matters.

The Municipality is the main executor of public welfare policies as municipalities are responsible for the production of community services such as education, first order health care, social services and to some extents public cultural services. Furthermore, it is responsible for the provision of local infrastructure as streets and roads, water and sewer lines as the linked treatment facilities, although the Municipality does not need to be the formal owner neither of infrastructure nor of other kinds of facilities. In addition, the Municipality holds the local planning authority mandated for initiating, preparing and the adopting of local plans as well as building permitting.

The municipalities have the authority to tax the inhabitants' income, and the Municipality can levy property tax within the municipal borders as well. Within certain limits, this authority to tax includes the freedom to decide over the tax load. Historically, the property tax has been very low and is still of minor fiscal importance. Besides, municipalities are entitled to use fees for the covering of costs concerning water, sewer and waste services. A central government tax allocating system is practiced in order to avoid that the local tax base will affect the municipalities' capacities to provide public services to acceptable standards and as equal as possible throughout the country. Each municipality is entitled to dispose certain amounts of money according to calculated needs based on criteria set in advance. If levied taxes should deviate substantially from these calculated amounts money will be transferred.

In the Norwegian model of a welfare state, the municipal division is regarded as the main immediate provider of public services. Provider in this regard implies that the municipalities or county municipalities have met requirements through three traditionally roles: as the authority that safeguards the production of local and regional services according to rules and regulations, as the actual producers of these services and as owner of the facilities for the production of services under the municipal division authority. This more or less vertically integrated model for the provision of public services is still prevailing. However, the two latter roles are changing. To larger extents than earlier municipalities arrange their responsibilities for the production of services in separately organized entities and-or invite tenders according to bid procedures from private companies for the operations of services.

1.5 Division and interlinkage of the political and the administrative system

The division of powers, the legislative, the executive and the judicial, generally determines the divisions and interlinkages of the political-administrative system. A constituting principle of the state government is therefore that divisions and interlinkages should not lead to corruption of these powers, neither through political nor administrative channels. Decision-making processes are regulated by rules and regulations as the conclusions of courts' are based on interpretation of positive law and consolidated judicial practice.

In municipal government the division between legislative and executive power is not that easy to follow strictly. The reason behind is that the municipalities to some extents are empowered with the authority to adopt articles of association and legally binding plans, which in itself is a lawmaking activity. At the same time, their main activities are of executive character for the realization of policies and plans in addition to the implementation of building projects. The highest local authority for adopting legally binding plans and for

deciding in substantial matters is as an example the same body, the Municipal Council at local tier.

The Parliament decides the division of labor between the different territorial jurisdictions: the Central Governments, the County Governor, the County Municipality and the Municipality. But between these entities there are also certain possibilities for adjustments of responsibilities and duties based on ad-hoc initiatives. The main legal basis for local government is the Municipal Act. In legal requirements regarding authority, organization and responsibilities all municipalities are equal whether they are small or big, rural or urban. In principle the municipal self-determination gives rich opportunities for initiatives and rooms for actions. However this freedom to act is limited by state imposed duties and financial constraints.

In state and municipal government, whether regional or local, the public handling of matters initiated by individuals or organizations are in main administratively led. Conflicts rooted in public law between authorities and one initiator can normally not be brought to the court system before handling of the matter is ended at the highest prescribed tier of government. Another constituting principle is that the body that took the decision should not undertake the handling of appeals or complaints against this public decision. However, public bodies mandated for handling of complaints can be operating under the same authority umbrella. For instance, in municipal planning complaints against an administrative decision can be handled by the Standing Committee for Planning Matters as complaints against the conclusion of this committee can go to the Municipal Council.

The division of authority and duties between the County Municipality and the Municipality is basically working on functional principles, not on a hierarchy of tiers. The County Municipality is in main responsible for the provision of higher order public services than the Municipality, like for instance higher education, transportation and county municipal transport infrastructure as regional roads. Still in terms of responsibilities, the duties of the County Municipality are currently rather limited compared to those of the Municipality. When it comes to mandates for land use or structural planning the authority structure does not follow a hierarchy of tiers. The County Municipality represents the regional planning power. However, it does not automatically hold the power to overrule local municipal planning contradicting the county plan or county planning policies, neither to coordinate two or more unwilling municipalities if their individual plans should work against each other. In addition a superior plan in the Norwegian planning system does not automatically overrule subordinate plans. This equalizing of authority between the two municipal orders in planning matters is

partly rooted in the political discussion on the division of authorities and duties between the two municipal levels, partly in the principle of municipal autonomy in which the Municipality is understood as the primary one. If the County Municipality wants to interfere with local planning against the will of local municipalities it has to raise formal objections against the local plans.

Individual interests to be represented in decisions under the public realm are in principle realized indirectly through the elections and participation of elected representatives. This applies for both divisions of government. However, this principle of indirect democracy has been challenged by arguments for the extension of rights to participate directly, particularly at local level and in detailed planning. In consequence, possibilities for public involvement should, as the central level policy goes, be enhanced and will include individuals as well as organizations.

A particular mechanism for expressing the will of the people concerned is established for the Saami Parliament. Any public authority should give the Saami Parliament the opportunity to express its opinion in all matters within the responsibility of this parliament before final decision is taken.

Information is a key factor in government of a working democracy, whether directly or indirectly. The principle of public accessible information means that decisions taken by state or municipal government should be made available upon requests. The legal possibilities for withdrawing documents from the access of the public are limited. State government and municipal division authorities should keep post case records (electronic or analogue) over sending and receiving of public matters. These records are public and available upon requests by anybody.

Also the court system is based on the principle of public accessible information. With few exceptions are the court meetings open for the public and the press. Court conclusions (sentences, judgments and decisions) are public documents.

2. Political System

2.1 General description, history, and key data of the political system

The political system is divided between the (central) state division and the municipal division, cf. Table 3. Elected politicians for serving the interests of the nation are representatives in the Parliament. It is not necessary that appointed politicians in the Government should have some background from a chair of the Parliament. There are no formal requirements of this kind. Anyhow, experience as representative in the Parliament will normally enhance the ministers' or the ministerial secretaries' capacity to judge whether policies of a Government will gather support in the Parliament or not. Ministerial secretaries and advisers are normally aspiring politicians or professionals with membership in the ruling party (-ies). Politicians elected for regional and local government belong to the municipal division.

Politicians elected or appointed for the government of the state are only found at the central government tire. To some extents it might be said that the political connections between the central government and the regions have been maintained through the tradition of appointing existing or former politicians from the Parliament or the Government to a position as County Governor. In the opposite direction, politicians in central government seats will more often than not have certain experiences from local politics. Recruitment of politicians from county municipal seats to the Parliament or positions in the Government is not that usual.

2.2 Levels and specific aspects of the political system

The County Governor reports directly to the Government. Appointment of members to boards of the Regional state sectors is in principle not based on political membership. This kind of sectoral rule is of fairly new date. Formerly only the central state tire and the local tier were under the rule of directly elected councils. Direct election to the county municipal councils was recognized in 1976. Until then the political assembly of the County Municipality consisted of directly elected mayors from the municipalities within the borders of the County Municipality. Local municipalities or county municipalities cooperating across borders can voluntarily establish political bodies for coordinating in planning matters or other kinds of tasks. Within certain mandates such bodies can work for longer periods on more or less permanent basis.

Table 3: *Levels and specific aspects of the political system.*

Aspect / Level	Organ(s)	Authority/ function	Tasks
National level	• Parliament (Stortinget)	• Legislative power together with powers concerning financing and planning of the State	• Legislative procedures, fiscal budgeting and planning procedures, supervising procedures and duties
	• Government (Regjeringen)	• Executive power	• Realization of policies according to working programs through Government Conferences and in the King in Government Council Meetings
Regional level	• County Council (Fylkestinget)	• County (regional) municipal government	• Planning for the provision of regional municipal services, regional land use planning, and realization of policies concerning regional development
Local level	• Municipal Council (Kommunestyret)	• Local municipal government	• Planning for the provision of local municipal services, rural and urban land use planning, permit-ting and realization of local policies

In total close to 240 politicians are in elected and appointed positions at central government level. In the county municipalities around 790 politicians are directly elected as representatives for the different parties. The similar number for the municipalities is 13 800.

2.3 Further information on the political system (e.g. interlinkages between levels, agencies etc.)

Interlinkages between the different political tiers are characterized by the political relationships between the state and the municipal systems, and hence the division of labor related to duties and responsibilities between the two categories of government.

First of all, the power of the municipal division, whether the County or the Municipality, is subordinate to the State. County municipalities and municipalities are managers of power derived by the central state power. As such the Parliament will any time have the formal power to reorganize or withdraw it. This supremacy of the authority of the state becomes evident in situations when the Government requires that the municipalities should be obliged

to realize state policies. Laws, regulations, guidelines, control mechanisms and inspectorates are important instruments in this regard.

Secondly, the relationship between the two divisions of government is also influenced by a more pragmatic understanding of the needs for cooperation or a kind of “partnership”. To some extents the partition of authority and responsibilities between these two systems is therefore based on functional dependencies. The central government is in charge of the authority to decide the overall policies for the nation and allocate resources for their realization. The municipalities on their hand should be the acting executors. However, this division of authority and responsibilities is far from clear. On the contrary, the relationship is rather intertwined. One consequence is the need for practical coordination over the tiers, and in some situations, for reporting and auditing in order to make sure that the municipalities have been able to follow up policies and requirements set by the State.

Finally, the municipalities are also in an autonomous position of the State. Because municipalities have the mandate to initiate activities on their own and decide over ends and means in this regard, their activities cannot be strictly linked to state activities initiated in advance. This autonomy gives the municipalities opportunities to influence state policies and state budgets. Impacts of municipal initiatives initiated independently and perhaps contrary to state policies are usually just recognized as the normal state-municipal relationship. In some situations they might be investigated and reported through research. If there should be more serious conflicts or discrepancies, which is really rare, it might be a case for the inspectorates, eventually the courts.

The territorial division of Norway relating to government, and the political organization as a part of it, is under consideration of central state authorities. Since there is no clear cut opinion on the division of labor between the existing tiers or on how many political tiers there should be, it is too early or even impossible to indicate alternative territorial divisions for the future political and administrative organization of the country.

3. Administrative System

3.1 General description, history, and key data of the administrative system

In decentralized State administration the various entities are under direct or indirect instructions of the Government represented by ministries or alternatively by directorates or inspectorates. The principal core of the territorial division is the county, today represented by the State County, cf. Table 4. Any decentralized state sector considered, the territorial

division would be an addition of counties, or eventually contain a reference to this county division through an addition or subtraction of smaller primary entities (municipalities). Most of these entities are operating towards inhabitants or individual organizational units within their areas of jurisdiction.

The county division of the administrative system is, in opposite to the local one, quite old. Certain elements of this division were established under Norwegian Kings in the late Middle Age, and later on, reorganized and consolidated as a workable administrative partitioning of the country during the Danish-Norwegian Kingdom. After the independency in 1814, this system of administrative-territorial organisations was modernized, but still as pure administratively led authorities; exempted directories ruled by elected or appointed political assemblies for the respective jurisdiction areas.

The local division of the administrative system is of another origin, rooted in the Aldermen's Act of 1837 and the subsequent municipal organisation. Formerly, there was a difference between rural and urban municipalities originally based on grading of authority and state privileges. The municipal reform in 1961 abolished this distinction and merged municipalities close to the existing number. Currently, both the county and local municipal administration is in principle professional secretaries to bodies consisting of elected politicians. Apart from administration there are professionals working with the provision of public services at local and regional levels under the rule of directly elected bodies. However, they are not included in the realm of municipal administration in this context. Like the state administration they only include officials of entities linked to municipal government.

Table 4: *Levels and specific aspects of the administrative system.*

Aspect / Level	Institution(s)	Authority/ function	Tasks
National level	• Officials in the Parliament and the Government	• Administrative support to elected representatives	• Preparation of matters for handling in committees and plenary sessions of the Parliament, within ministries and the Government
	• Directorates	• Authority based on professional expertise	• Concluding power in matters according to mandate and provision of professional expertise to the Government
	• Inspectorates	• Authority relating to rule of public law and standards	• Concluding power in mandated matters, monitoring and controlling
Regional levels	• County Governors	• Decentralized state authority	• Concluding authority, authority for handling of appeals, plans' approval and control
	• Branches of state directorates and inspectorates	• Decentralized state authority as for central government directorates and inspectorates	• Decentralized concluding power in mandated matters as for central government directorates, inspectorates, state infrastructure, etc.
	• County Municipalities	• Administrative support to politicians in council and committees. Delegated power for concluding in mandated matters	• Preparation and handling of matters for political decisions, concluding of matters based on delegation
Local level	• Local Municipalities	• Administrative support to politicians in council and committees. Delegated power for concluding in mandated matters	• Preparation and handling of matters for political decisions, concluding of matters based on delegation

The central state administration employs around 4000 employees comprising the Parliament and Governmental ministries. The number of employees in external state administration, in the County Governors' offices, directorates and inspectorate are far more extensive in total. In the County Governors' offices close to 2 400 officials are employed, while more than 16 100 persons work full or part time in directorates and inspectorates. In municipal government administration around 5200 persons are occupied in county municipal

administration, while above 58 900 persons work full or part time in the local municipal administration. The municipal division employees in service provision relating to education, health, social services and culture are not included.

3.2 Further information on the administrative system (e.g. interlinkages between levels, institutions, etc.)

Within the administrative systems, whether the state or the municipal division, laws, regulations, guidelines and decrees set the administrative order of the public affairs. The Administration Act and the Public Information Act are basic instruments for the regulation of relationships between different bodies and their duties towards the public. For the civil service of the state the State Official Act strikes a balance of rights and duties for individual employees.

Besides such legal mechanisms, the connections between state and municipal administration are influenced by financial interlinkages. State financial arrangements are supposed to have extensive consequences on the relationship between the two governmental systems. The impact of the state system is in principle of two kinds: either through rules and regulations for the transfer of money from the state to municipalities, or through political earmarking of municipal revenues affecting regional and particularly local prioritization of tasks. The impact of the State on municipal finances and hence the standard of municipal service provision implies that the municipal economy becomes a very important issue in the discussion of municipal territorial divisions and the Municipality's role as a service provider in the Norwegian welfare state as well.

Since there are extensive cooperation between the state and the municipal divisions of government, particularly in public service provision and planning, meetings are regularly organized for exchanging information, and for allocating resources, duties and responsibilities. Officials normally represent the central government in such meetings. There is no formalized system for how and when such cooperative meetings should be organized. But certain procedures exist for systematic reporting form the municipalities to superior levels. For instance, in planning information meetings between municipalities and the County Governor and/or the County Municipality are arranged quite regularly. In situations when the municipalities are acting on their own as more or less autonomous entities, the connection between the two forms of government is weaker. Knowledge about how the municipalities are working under the umbrella of municipal autonomy is in main from understandable reasons dependent on municipalities' willingness and capacities to inform.

Certain exceptions occur in situations when such initiatives lead to violation of laws and of individual rights. In such situations information will normally disseminate trough the appeal or court system.

II. The Planning System of Norway

1. Planning system in general

1.1 History of the planning system

The evolution of the Norwegian planning system can be divided in three different stages:

(1) Except for state infrastructure, public planning *after* the independence in 1814 consisted in general of detailed land use planning based on regulatory schemes confined to urban agglomerations. Just a smaller proportion of the population lived at that time in urban areas. Planning was therefore limited to the tiny urban settlements of the country. Supposedly, this planning was of lesser material relevance for most of the country's population.

This does not mean that European urban architecture and planning were unknown to the authorities, not even to the people living in the small and scattered urbanities. Buildings exhibiting Romanesque, Renaissance or more commonly Baroque architectural elements are still witnessing of influences from earlier periods. And the Renaissance street grid was introduced in the Mid-1600 planning of fortified towns as well as in planning for the regeneration of towns after devastating fires. These new ideas of urban architecture and planning came relatively late to Norway. Nevertheless, the regulatory character of urban plans had seemingly an earlier origin. As early as in Late-1200 Norwegian urban regulations underlined the need for separating polluting activities from areas where people were living or gathering. This early stage of what more disputable could be labeled as a planning system exhibits characteristics that somehow reveal a rather long tradition. According to needs planning laws and regulations were adopted for prioritized areas.

During the 1840s a state planning law came into being for the biggest towns requiring town plans for these urbanized areas as urban municipalities. Outside these municipal areas, there was no fixed jurisdiction for public planning. The urban planning document was a kind

of land use regulation scheme for the physical structures and for the implementation of constructions of certain magnitude, including urban infrastructure. Finally, officials, usually the managers of planning and infrastructure sectors, constituted the majority of planning committees for the execution of planning, including development control.

(2) *1924* marks a decisive move towards an extended unitary planning system when a new building act was adopted for all urban municipalities, and even rural municipalities who wanted to validate this law for their planning. The obligatory jurisdiction area for planning according to this law was still limited to the border of these municipalities. Since any rural municipality had the mandate to validate this law, it came successively into power in most of the municipalities. Still, planning was understood as a public device for the creation of orderly land use and infrastructure service provision based on one category of plans, the zoning plan, which could be regarded as a detailed development plan. In the local planning and building committees officials, in main directors of the different municipal sectors, were in majority.

The rather constrained territorial and functional scope of this law was quite soon challenged from two different positions. Firstly, urbanization and expansion of urban settlements came gradually to weaken the relevance of urban settlement delineations and municipality borders as demarcations for land use planning. Population growth and the evolution of transportation technologies extended gradually urban structures across municipal borders and engendered needs for overall land use planning covering urban settlements in continuity. The first (voluntary) attempts to plan regionally across municipal borders occurred around 1930. Initiated by state planning authorities, these attempts continued from the late 1940s, however without any unitary legal frame for this kind of planning. Secondly, WWII and the subsequent needs for urban regeneration together with political visions for a coherently planned welfare state gave new arguments for the widening of planning tasks, and the establishing of a new institutional order for urban and regional planning. In the beginning, these new tendencies concentrated on planning for regional economic development as a decentralized realization of state policies. Later on attempts to expand the content of planning branched into other tracks.

(3) In *1965* a new building act was adopted. For the first time planning was introduced to the whole main land of the national territory and divided into three distinct planning levels: the central state, regions consisting of two or more municipalities with separate regional planning bodies and the local municipalities representing the local tier. This law introduced elected political rule in planning matters as the planning- and building committees should

reflect the political majority in power. Some of the ambitions behind this new system were to extend the mandate of planning in general and on both municipal levels in particular. In county as in municipal planning the intent was to integrate activity planning within different public sectors with land use planning. In the beginning, infrastructure planning played a prominent role in these attempts to co-ordinate budget planning within public sectors with public land use planning. Particularly in local planning housing was included in this co-ordination.

The State's involvement in housing was directed towards housing finance through the State Housing Bank and regulation of supply and demand as well. But as the public responsibilities relating to education, health, social security and culture expanded during the 1960s and 1970s, the overall plans for these levels as co-coordinated documents should cover all municipal activities for both levels including the overall land use or structure plans. In consequence, the regional level mandated for land use planning had to be connected to the main entity in charge of public regional services, i.e. the County Municipality. In 1973 the county municipal master plan replaced the former regional plan.

Later on these formal principles are partly maintained, partly consolidated through the existing Planning and Building Act adopted in 1985 and its later revisions. Throughout these reforming activities the principal formal instruments in urban detailed planning and development control are almost kept untouched since 1924, except for some noticeable changes. Regarding planning requirement for EIA was adopted in 1987 and in 2006 land development agreements was legalized as instruments for the exaction of developers' contributions to infrastructure and community services. The intents to strengthen the democracy in planning are followed up through rules emphasizing public access to information and the rights to participate in planning and building matters. During the latest years certain principles of permitting have been changed giving extended responsibilities of the building control operations to the developer.

1.2 Basic principles

In Norwegian spatial planning system, elected bodies at central government tier are the supreme authorities within the state division of the system. In the municipal division, at regional and local territorial levels, the directly elected County Council on behalf of the County Municipality and Municipal Council in the (local) Municipality represent the highest planning authorities respectively. Planning authorities are unitarily mandated for planning within their specific areas of jurisdiction, which summarize to the main land area in continuity.

This planning system comprises three segments of public government: *Physical planning comprising land use and structural planning* connecting over all administrative levels, including the development control at local level. *Public activity planning* is mainly connected to local and regional levels while *regional development planning* is, as indicated, executed at meso-levels. However, the latter segment consists today of several rather different activities without any clear definition of planning content or firm requirements for the organizing of planning procedures. Hence, the content of regional development planning is to some extents varying from region to region, still under the responsibility of the County Municipality. Currently regional development planning is most common in regions covering sparsely populated, and from an economic development point of view, marginalized areas.

Physical planning and public activity planning are in principle integrated in the two overall plan categories for the County Municipality and the Municipality. Each of these overall plans is divided into two kinds of documents: the community part and the land use part, of which only the latter contain a map demarking the status relating to guidelines and zoning provisions. Land use planning as pure physical planning is normally found either on subordinate municipal planning levels or at central government tier in terms of policies including national provisions or contingently, in very extraordinary situations, zoning plans. In addition, budget planning at central state tier executed by the Government represents the initiating force for sectoral planning of infrastructure and facilities under the authority of the State.

1.3 Objectives and scope

At least three kinds of sources constitute guiding directions for land use planning: national laws, white papers and transnational regulations and guidelines:

The most authoritative and settled guiding principles are stated in the Planning and Building Act, Section 2. Planning due to this Act is intended to facilitate coordination of national, regional and local activities. It should provide a basis for decisions concerning use and protection of resources and concerning development, and to safeguard aesthetic considerations. By means of planning, and through special requirements concerning individual building projects, the Act should promote situations where the use of land and the buildings thereon will be of greatest possible benefit to the individual and the society. Planning pursuant to this Act should especially emphasis the children's need for a good environment to grow up.

Regularly, white papers from the Government update the understanding of planning purposes, as central government policies are changing or the needs for updating occur according to shifting circumstances. Of particular interests are policies towards the physical environment. An overall aim is to integrate environmental concerns over tiers and across sectors of government. Sustainability in all kinds of man-initiated relationships should be observed: natural, environmental, social and economical as underlined by the Brundtland Commission and followed up by Agenda 21.

Traditionally, land use planning has been closely connected to national housing policies. After liberalization of state regulations and changes in the state housing finance in the early 1980s, state-housing policy has lost some of its overall relevance in planning. Except for certain targeted social groups, the balance of supply and demand has gained importance as the guiding housing principle in planning.

The Ministry of Environment is the leading authority for the production of planning guidance material. In general this material can be regarded as the outcome of attempts to transform the content of whitepapers into operative models for planning purposes. However, there are no formal requirements linking the production of guiding material to state planning policies, beside the obvious connection that whitepapers contain directions for prioritization of planning tasks and behavior. Through the latest years the scope of the guidance material has in main been concentrating on substantial planning issues as land-use intensification, urban (architectural) design, open space structure, etc., less on the use of different planning instruments.

The purpose of public activity planning is partly rooted in national polices for a welfare state and the legalizing of individual welfare rights, partly in the Municipal Law regulating the role of the municipal division as provider of public services. Equality in supply and accessibility are basic principles behind the public responsibility for the provision of public services financed by the taxpayers. Yet, the individual rights for consuming public services are varying between the different sectors of services, education, health, social security and culture. Planning within all these sectors as well as the coordination between them and towards spatial planning will have to observe the particular laws and regulations pertaining planning and the individual rights to services within these sectors.

Initially, regional development planning consisted of two components, one directed towards land use and the settlement structure, the other towards the economic conditions for development. The former is brought further in the county municipal planning to the extents

land use and structural conditions for the development are incorporated. The latter is fairly abandoned, alternatively redefined as management of public financial support or organizing of other kinds of means for economic development within the county. Although the content of regional planning has changed substantially through a rather long period of time, the overall aim for this planning seems still to be balanced regional development, perhaps without the strong emphasis on industrial structure and employment opportunities as earlier.

1.4 Functions

In relation to respective planning purposes the three different planning categories will command different functions, although partly integrated in municipal planning:

Land use planning represents for development purposes and protection a kind of public intervention into the building and property market. In urban areas private actors as existing or potential owners of property rights dominate this market. In rural areas, also the main part of the forest and mountainous land is in private ownership, either individual or certain categories of common private ownership. But a substantial part this land in rural areas is under state ownership, administered by a special directorate for state forests and open land, the State Forest Directorate. Although all the legal constructions of various common or shared ownerships are created for the management of land according to the customary rights and the interests of the rural population, tendencies of marketization have been more obvious throughout the latest years.

Among other things it means that the criterion of profitability is gaining ground as the leading principle among the different owners in the management of land properties. It engenders new conditions for the use of land, particularly in rural areas as well as for the allocation of land to development purposes. In consequence, the tension relating to the use of land between the holders of property rights and the public regulation regime in these areas is increasing. Besides, the extension of the public involvement into new or more specified fields of the physical environment like requirements for biodiversity, protection of species and in this regard regulation for the utilization of land is fueling not only the conflict between the property owners versus the planning regime. It gives also a new dimension to the traditional tension between urban and rural areas. In consequence, contradictions prevail between the overall aims for this planning and the different holders of rights, whether property rights or the rights to get involved in the planning process. Normally, there is no possibility for settling all of these conflicts arising from individual or organizational interests connected to civil rights through the planning authority's use of regulatory power in the realm of public law. In this regard, the regulative power based on the Planning and Building Act

represent to a lesser degree than earlier a decisive tool for reaching final conclusions. The possibilities for coordinated enforced or voluntary actions between planning as a category of public government and the property market seem to be more and more dependent on formal agreements or other kinds of common declarations based on contractual law arrangements.

Public activity planning is focusing on production of public services and allocation of resources to meet individual and collective needs. Consequently, public finance and budgeting are integral parts of this planning. In municipal planning short term operative budgeting is undertaken annually, as a rule conducted in parallel with the revision of the long term budgets for the coming four years. Although financial issues are important ingredients in this planning, the management of public service provision is highly influenced by the system of individuals' rights for having access to these services and even requirements for obligatory use, either of particular services or as for primary and secondary schools, to utilize a particular location of facilities.

Except for the physical part, the functions of regional development planning are not as clearly delineated as for the two other planning categories. But its relationship towards actors in industry and trade is somehow positively defined partly by common, partly by constitutional rights relating to autonomy in business and financial matters as well as organizational and contractual freedom. Towards these actors planning at any level will operate as a facilitator, for instance in allocating resources for the support of prioritized industries. Moreover, public sectors within the realm of the state and the municipal divisions can develop infrastructure and facilities, and even organize activities and events that create new or improved conditions for regional economic development. These functions will commonly necessitate certain kinds of coordination through regional planning authorities as the county councils. However, this kind of facilitation does not necessary call for preparation of comprehensive planning documents as required in land use or structural planning.

1.5 Main elements

The elements of the different planning categories are of deviating character:

Formally according to law, the mandate for and elements of land use planning are delineated and organized over levels as well as towards other sectors. It is more or less designed for a clear cut delineation of responsibilities between planning entities mandated with regulatory power and other public entities on the one hand and different kinds of actors, public or private, on the other. Thus, it describes the organization of planning and permitting authorities, planning and permitting processes at different levels, and furthermore, types of

plans and applications with related instruments, also in situations justifying more extensive intervention through eminent domain.

In the formal system there has been a clear division of labor in financial matters between the public entities responsible for development of infrastructure and community facilities versus the developer's responsibilities. These kinds of territorial goods have by and large been under public responsibilities until now. Through the latest years new organizational arrangements for financing infrastructure and facilities are introduced, particularly in state infrastructure planning. In land use planning practice this demarcation seems to be under change, mainly as a consequence of negotiating arrangements used during the phase of projects implementation. Additionally, there are elements regulating sanctions towards violation of rules and regulations. Particular aspects of the physical environment like nature and cultural heritage are regarded as a part of the planning system through legal arrangements, although the regulatory authority relating to nature conservation and cultural heritage is under the rule of the State.

Since the municipalities are the main producers of public services, the most important elements are connected to legal constructions partially affecting, partially regulating municipal activities. Municipal ownership of infrastructure and community facilities is important in this regard. The Municipal Law together with sectoral laws contains the main statutory responsibilities for the organizing and financing of municipal activities, and will accordingly strike a balance towards requirements concerning other kinds of services under the responsibilities of the State..

Usually, it is up to the County Municipality to organize regional development planning connecting to industrial activities. The content and as a consequence the content of this planning will be varying. At minimum there will be a management part. However development planning activities can be organized permanently or on temporary basis as projects. Municipalities can organize development planning activities as a part of their comprehensive municipal planning. In some situations the scope of this local development planning can have a multi municipal or regional character through cooperation on agreed tasks between several municipalities.

1.6 Main instruments

The main instrument in land use planning is the regulatory power in pursuance with the Planning and Building Act. The statutory instruments of this power are structured according to the hierarchy of government and the division of labor between the different levels of

government and planning. In principle three levels are empowered with mandates to command different categories of instruments when it comes to public activity planning.

This kind of planning is by and large based on functional division of authorities and responsibilities. In physical planning, however, it should be more correct to divide the system with the related instruments in two tiers, the central state and the local tiers, because the two levels of municipal government in principle are of equal in terms of planning authority, cf. the hierarchal structure of tiers with related instruments for land use planning in the figure below.

Formally as well as in operation, the character of these instruments varies between the levels, cf. Figure 1. In central government planning together with County Governor rules, regulations and guidelines are dominating as well as such instruments regulate the State intervention in municipal planning. Within the municipal division, in the County Municipality and particularly in the Municipality, the instruments are generally more concentrating on provisions and guidelines connected to different categories of plans. Since planning, as a regulatory device, interferes with the real property market where the owners enjoy certain constitutional protection of their economic rights, planning at operational levels will need instruments for overruling these interests, which in some situations will require compensation for losses. However, planning for the implementation of projects can also engender needs for instruments that can be used for deciding on financial matters, especially in distributing financial responsibilities relating to the constructing of infrastructure and community facilities.

For all main categories of plans, the county master plan and municipal master plan, containing policies and regulatory frameworks for the environment, and zoning plans that can cause similar significant effects, an environmental impact assessment is required. Such assessments according to the Planning and Building Act are also required for certain plans and projects pursuant to other legislation. The purpose is to ensure that the environment including natural resources and the community is taken into account during the preparation of the plan or project, and when a decision is taken as to whether, and if so subject to what conditions, the plan or project can be carried out. As early as possible during the preparation of the plan or project, a proposal for a program of the planning and assessment process shall be prepared. This program proposal will describe the purpose of the plan or application, the need for assessment and arrangements for participation. The proposal shall be made available for consultation and public participation.

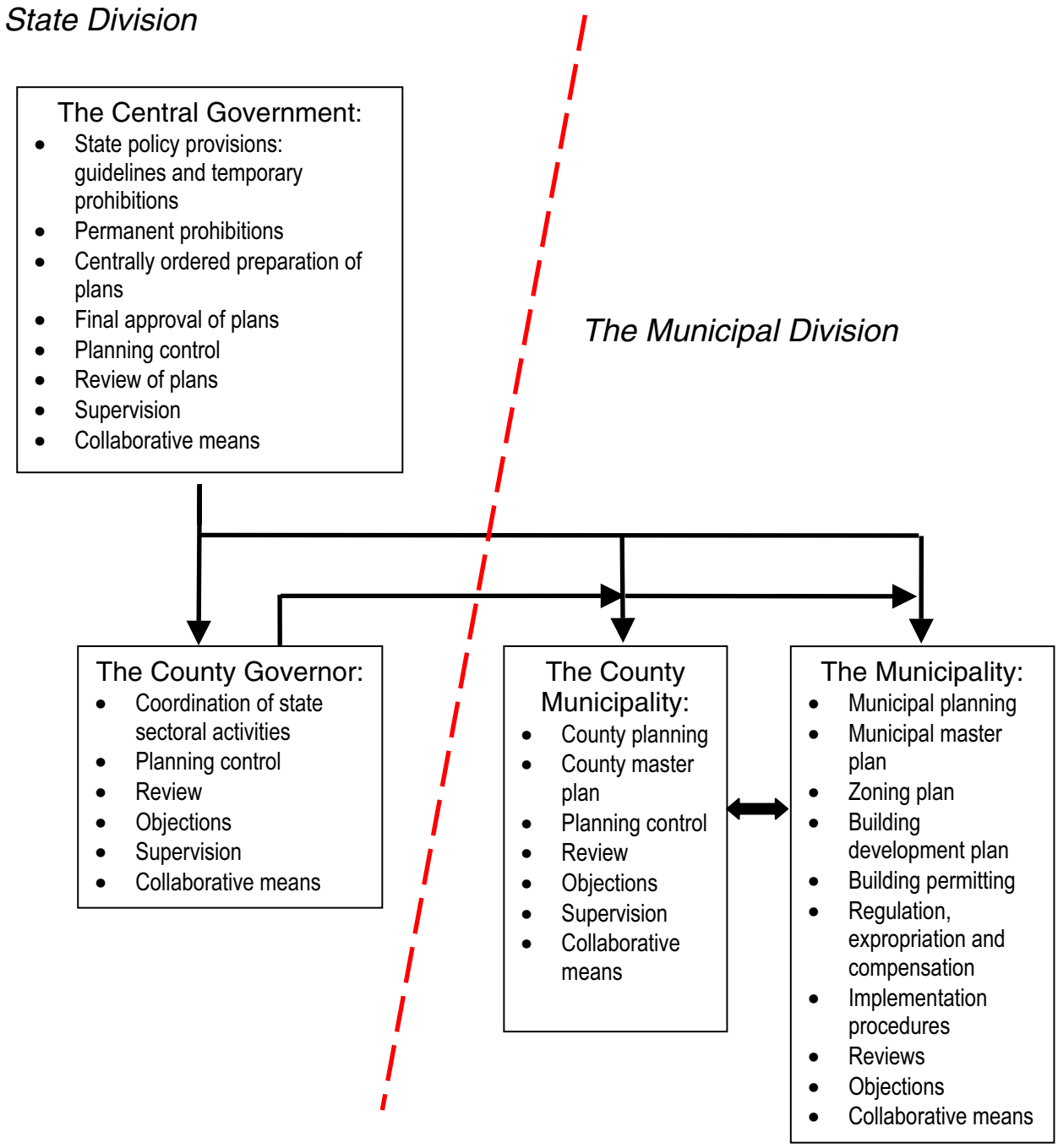


Figure 1: Divisions of government and *planning levels with main categories of statutory instruments according to the Planning and Building Act.*

Proposed plan or application together with an environmental impact assessment shall be prepared on the basis of the prescribed planning and assessment program. Both documents should be made available for consultation and public inspection. Administrative decisions on the program for the planning and assessment process shall be published with the grounds for the decision. The grounds will state how the possible effects of the plan or application and any consultative comments received have been assessed. In addition, there will be

statements on what importance has been attached to these inputs in making the decision, particularly as regards the choice of alternatives. In connection to this decision, conditions shall be considered and insofar as necessary laid down with a view to monitoring and remedying possible negative effects of significant importance. The conditions will be set out in the decision.

The overall aim and specific purpose of the Planning and Building Act to coordinate over levels and across sectors will raise needs for certain collaborative instruments at any level considered. In this regard there is a general requirement that public bodies or public agencies with tasks concerning use of resources, protection and conservation, physical development, or social and cultural development within the area covered by a county municipality or a municipality shall give respective planning authorities necessary assistance in planning activities. Such bodies shall, at the request of the County Municipality, alternatively the Municipality, participate in advisory committees established by the county or municipal council in order to promote cooperation in planning.

The Municipality has a special duty in initiating cooperation as the operative planning and building authority. In matters pursuant to the Planning and Building Act the municipal planning and building authorities shall cooperate externally with other public authorities. Likewise, these authorities shall collect comments in matters pertaining to the fields of responsibility of these external authorities concerned. Only after the County Municipality or Municipality and the corresponding bodies concerned have expressed an opinion, the Ministry may exempt the public bodies or agencies from participation in such cooperative committees. The County Governor has a particular responsibility and role in organizing this kind of collaboration.

Consultation, publication and information are important ingredients in collaboration and participation. Planning at any level should make an effective effort at an early stage of the planning work to inform the public about planning activities and the legal implications. Affected individuals and groups should be given an opportunity to participate actively in the planning process. When a draft of the county master plan, land use part of a municipal master plan or a zoning plan is published, it should be pointed out whether there are alternative drafts of statutory plans that have not been or will not be made public. If so, it shall be made clear that the draft of such alternatives should be available at the office of the planning authority. Any individual has the right, at the office of the authority concerned, to get information about alternative draft plans and documents forming the basis for the draft plans, with certain legal exceptions.

In the Municipality the planning authority is mandated to initiate planning, to adopt regulations, to approve applications according to such regulations, to initiate arrangements that will transfer the civil rights for the use of land into ownership that will fulfill the planning authority's objectives for this area, and finally to arrange financial conditions for the implementation of constructions. In municipal government the division between legislative and executive power is balanced through a discretionary mandate that allows the municipalities to issue regulatory provisions and at the same time decide on ends and means for the realization of local policies. This balancing of the legislative and executive powers gives the Municipality to some extents the opportunity to formulate and adopt legal articles of association and legally binding plans, in addition to make dispensations from the Planning and Building Act according to institutional capacities of the Municipality and local needs. The highest municipal authority for adopting legally binding decrees and for deciding on substantial matters is the same body, the Municipal Council. Although some of these statutory rights of power are obligatory, the mandate of the planning authority is in general a discretionary one. Consequently, it will be up to the judgment of the planning authority to decide how all these rights of power should be applied, and in some cases, whether they should be applied at all, provided that no other authority interferes from superior or equal tiers.

Within the municipal division financial means in physical planning and activity planning are allocated through the same budgeting mechanisms. Formally, these mechanisms are in a somewhat weaker position in physical planning compared to activity planning, although they might be decisive for the implementation of public building projects and other kinds of initiatives as well. The connecting of legal means under regulatory power to financial means of the municipality will in principle take place under the preparation of the municipal master plan, when the overall land use planning and the activity planning are being coordinated.

Still, the final municipal decisions in these matters are also based on a discretionary balance of priorities. It means that there is no necessary linkage between the municipal ambitions for the development and the budgets allocating money for the corresponding responsibilities to implement these developments. In terms of legal requirements, the municipalities do not enjoy the same discretional freedom when prioritizing financial means for municipal activity planning purposes, particularly for two reasons. Firstly, legal requirements and individual legal rights especially related to education, health and social services have a stronger claim on municipal funding than the regulatory power of planning. Secondly, the municipal

freedom to allocate money is constrained through earmarking of money by the central government.

1.7 Significance of transnational and trans-border aspects

In relation to the Brundtland Commission and the subsequent Agenda 21, transnational recommendations are adopted and integrated in national environmental policies, laws and regulations. In ordinary planning procedures neighboring countries will be involved if the plans or projects concerned might engender negative impacts and require the use of environmental impact assessments to clarify procedures for handling the subsequent planning and implementation.

Plans and projects that can have significant negative effects in another country will require environmental impact assessment. The state or states in question shall be notified and given the opportunity to participate in the planning or the environmental impact assessment process.

1.8 Current and upcoming changes

Both the legal content of the planning system and the organizational structure of the planning authorities, particularly the territorial division, are under consideration within the central government. To some extents, planning laws are more or less under continuous changes, partially engendered by domestic needs, partially undertaken in order to harmonize the national system to transnational rules and regulations. However, most of these changes have not been affecting the basic principles of physical planning according to the Planning and Building Act, and the public activity planning. But the content and character of these kinds of planning are obviously colored by changes in State polices, particularly when it comes to economy and financing within sectors. In regional development planning quite extensive changes have taken place as a consequence of changing regional policies.

During the latest years two expert committees appointed by the Government have launched reports for the revisions of the respective planning and building parts of the Planning and Building Act. Decisions for preparation of the corresponding propositions from the two ministries in charge are already taken. Generally, it is difficult to point at particular aspects that will be changed during this coming revision. It depends particularly on the constellations between the different party groups in the Parliament during the final stage of law making. Yet, according to the expert committees, the organization of regional planning, categories of

planning instruments, mechanisms for public participation and financing of urban development costs together with certain visions for simplifying of public decision making procedures seem to cover most of the aspects for future discussions on legal revisions.

Regarding the organizational structure the situation is even more unclear or intermediary. Because the authority of planning and building in the Government is shared between two ministries, there has been a more or less continuous flow of voices for reserving this authority to a single ministry over the last twenty years. Besides, one particular expert committee has elaborated challenges connected to the division of labor between the different tiers of government and concluded in a report some years ago (2000).

All these issues concerning the organizational structure of planning authorities are still under discussion. In addition to the organization at central government tier, possible conclusions for the municipal division and the division of planning authority and mandates between the central and regional levels are still kept open. For the local tier a political majority in the existing Parliament (2007) is definitely supporting the idea either of bigger municipalities or extended voluntary cooperation across municipal borders within prioritized sectors. But the political parties are of different opinions whether the central government should enforce the merging of municipalities or it should just take place voluntarily. Political attitudes to the issues of regional divisions, and eventually the responsibilities of the county level in service provision and planning, are even more unclear.

2. Planning legislation and jurisdiction

2.1 Legal framework of planning

The Norwegian system for land use planning is in principle a regulatory one, based on legally binding zoning regulations. Development control is an inseparable part of this system. Formally, a single building permission, although considered in two steps for projects of some extents, is required for controlling development. In practice, however, this single permission principle has to be considered in relation to the free right to initiate detailed development plans and the two-step handling of building permit applications.

The legal core of the planning system is the Planning and Building Act. In additions to the stated purposes regarding the environment, it is basically a law structuring the statutory requirements for development and protection processes. The emphasis on the environment needs to be viewed in relation to the Norwegian environmental legislation in general. Since

there is no overall law regulating environmental concerns within different sectors, except for a particular clause of the Constitution, legislation on the environment is scattered over several sectoral laws. The most important ones in planning are the the Pollution Act, the Nature Conservation Act and the Cultural Heritage Act, all of which under the authority of Ministry of Environment. These sectoral laws, like the Nature Conservation Act and the Cultural Heritage Act, give possibilities for using specific planning instruments. Some of these instruments could be considered as certain types of plans connected to regulatory frameworks tailored for areas under different status of protection, like the “landscape protection area” or the “national parks” according to the Nature Conservation Act. In addition the Agriculture Act represents a particular strong factor when it comes to planning in rural areas and protection of cultivated and arable land. In forest areas planning and nature conservation will have to strike a balance towards forestry under legal rule of the forest production acts. Planning instruments embedded in all these laws are under the rule of state government, of which the County Governor is the main operative entity.

Furthermore, planning within state sectors takes place within sectoral bodies in pursuance with the respective sectoral laws. The most important sectoral legislation in relation to planning is under the Ministry of Transportation. Separate authorities are responsible for planning related to roads, rails, and aviation. Legislation for harbors planning is under Ministry of Fisheries and Costal Management. Planning for the purpose of implementing future projects within these sectors, takes place according to the procedures of relevant statutory plans in the Planning and Building Act. It means that the statutory plans applicable at county and local levels can be used in this sectoral planning, as the partial land use parts of the respective county and municipal master plans, the zoning plan, etc. The Water Management Act under the Ministry of Oil and Energy constitute another planning sector, particular important for planning and the environment in rural areas. So far, this law prescribes exclusive tools for this kind of planning.

The Municipal Act under the authority of Ministry of Local Government and Regional Development plays a distinctive role in planning. Although not formally connected to the land use and structural planning legislation, this law is strongly affecting the municipalities as planning authorities, especially when it comes to formulation of local development policies, budgeting and the use of financial means for the realization of plans.

2.2 Legislation and jurisdiction on different levels

The central government tier

The planning system is based on laws adopted by the Parliament. The Planning and building Act applies to the whole country including watercourses. Into the sea this Act applies out to the base line.

In general, the borders of the respective planning authorities delineate the planning jurisdiction at each tire territorially. For the planning authority at central government tire, shared by the Ministry of Environment and Ministry of Local Government and Regional Development, the jurisdiction area is therefore the whole country including watercourses out to the base line. The only exception is that the Government can decide that the Act shall apply in whole or in part to Svalbard, the populated archipelago in the Artic.

The territory of the State County is the jurisdiction area of the County Governor, as the areas of the County Municipality and the Municipality are the planning jurisdictions of the County Municipality and the Municipality respectively.

The Ministry of Environment as the supreme planning authority can address concerns of the State in two different ways. Besides the legislative activities, the central government is in charge of several instruments that in a direct way, without actual planning activities or non-activities at subordinate tiers, will give central government directions to regional and local planning. Additionally, the Ministry can interfere with county and local planning matters more indirectly, depending on what is going on at these planning levels, to the degree it is necessary to realize state policies and plans.

Three kinds of instruments characterize the direct involvement: national policy provisions, prohibition against building on and partitioning off a property inside a 100 meters wide belt along the shoreline to the sea, and finally the ordering of central preparation of land use parts of municipal master plans and of zoning plans.

(1) The Ministry can define state policy provisions in terms of general objectives and frameworks in order to create common directions for planning based on priorities of the Government. On this behalf it can issue guidelines for physical, economic and social development in counties and municipalities. As guidelines, these provisions will not be legally binding on the use of land. In general, the intent is to enhance the understanding of the legal framework and policies in planning, and in this regard create a legal basis for state

sectoral authorities, the County Governor, the County Municipality and the Municipality to raise objections against regional and local planning when needed.

However such provisions can have more severe legal impacts. After consultation with municipalities and counties concerned, the Ministry can prohibit for a period of 10 years the initiation of specially designated building and construction projects within specifically defined geographical areas, unless consent has been obtained from the Ministry. Contingently, it can decide that without consent, such projects can only be initiated in accordance with the land use part of the municipal master plan or a local zoning plan. The Ministry can extend this ban for 5 years at a time. As a legally binding instrument this kind of provisions should be made available for the public for comments in the localities concerned before final decision is taken, according to the handling of zoning plans. State bans against specially designated building and construction projects are rarely used.

A particular kind of ministerial provisions are addressing the needs for inter-municipal planning or cooperation between two or more counties on planning. Such provisions should contain listing of tasks the cooperation should include and a delineation of the territories they should cover. Before the provisions are laid down the municipalities and respectively the counties concerned should be given opportunity to express their views.

(2) There is a general prohibition against buildings, constructions, installations and enclosures erected nearer to the shore of the sea and waterways than 100 meters. Such man made structures may not be substantially altered. This ban also applies for land subdivision and baying and selling of unbuilt parcels. Certainly, there are some exceptions for this general building ban. It does not apply to built-up areas nor to areas covered by a zoning plan or a shore area plan, although the latter is not a statutory planning category according to law. The same is the case for areas, which in the land use part of the municipal master plan are designated as areas for development or areas for extraction of raw materials. Nor does it apply to agricultural areas, nature areas and areas for open air recreation under the measures of this plan. In addition, there are certain exceptions for structures necessary for a particular kind of use, like agriculture, defense, hunting and fisheries industry, water supply, treatment plants, etc. To the same category belong bathing and toilet facilities in areas for public recreation, structures for the purpose of nature conservation in areas protected in pursuance of the Nature Conservation Act and finally jetties on developed property to ensure access for the owner or user.

(3) In some situations neither policy provisions nor the shoreline ban will give sufficient support to the realizing of state policies. The Ministry can then request that the municipality concerned should prepare and adopt a zoning plan or a land use part of a municipal master plan, eventually the Ministry can take the responsibility for preparing such plans itself. Rules and regulations according to the Act apply correspondingly to the preparation and handling of these plans. However the Ministry will act in lieu of the municipal council as regards the authority to instruct the standing municipal committee for planning issues. Also these planning instruments are rarely used.

(4) There are several other possibilities for the Ministry of Environment to interfere more indirectly in counties' and municipalities' planning. All these instruments of indirect character are far more common in use than direct requests for preparation and adoption of plans. Four types of instruments should be mentioned. The main mechanisms connect to the final approval of particular categories of plans, and interference through inspections and control as well as reviews of statutory planning. Besides, the Ministry will also have the possibility to influence subordinate planning through advice and supervision.

In county planning the Ministry shall supervise that the obligation to carry out continuous county planning is complied with. When the County Council has adopted a county master plan it should be submitted to the Ministry for review and final approval. During the approval, the Ministry can stipulate changes in the plan as found necessary out of consideration for state policy interests. During revision of a county plan major changes and additions that will affect the interests of the State and municipalities should be reported to the Ministry. It will decide whether the plan or a part of the plan should be reconsidered. Also during the revision the Ministry can order county plans to be changed.

Similar control and review mechanisms apply towards planning at local tier. The ministry shall oversee compliance with the obligation to carry out continuous municipal planning. But intervention by the central government in municipal planning is in general more reliant on conflicts between the municipalities concerned, neighboring municipalities' planning and the planning at county level. One important condition for ministerial involvement is the use of objections. If objections are raised against the land use part of a municipal master plan, this plan shall, after a decision of the Municipal Council, be sent to the Ministry for final approval, provided that the Municipal Council has not taken the objections into account. The Ministry decides whether the objections should be upheld. In this connection the Ministry may make such changes to the plan as found necessary. However, unaccounted objections are not a necessary condition for ministerial review and changing of the municipal plan. The Ministry

may make changes to the land use part of a municipal master plan out of consideration of State planning interests as such. In these situations the municipal council should have an opportunity to express an opinion on the ministerial request for review. The Ministry will have to inform the Municipality that the plan will be changed within three months after the receiving of the plan.

Revising of municipal master plans follows the same procedures in cases of objections or ministerial request for review. Also the other municipal plan categories, zoning plans and building development plans, will need final approval by the Ministry if they should be encumbered with objections the municipality is not willing to meet. The Ministry can also ask for review of the zoning plan, if the plan considered finally in the Municipality conflicts with state planning interests, the county plan or the land use part of the municipal master plan. However, whether these plan categories are objected or requested for review the eventual changes undertaken by the Ministry must not lead to any change of the main features of the plan. And under any circumstances the Municipality should be given an opportunity to express an opinion. If the plan is requested for review the Municipality can on its own initiative cancel the plan or make such changes as found to be necessary.

The county level

The County Governor represents the first instance for complaints against decisions of municipal councils. This authority is also mandated for raising objections against municipal plans and planning decisions. The practice is still somewhat unclear whether such objections have to be grounded on legal justifications (violation of rules and regulations including interpretation of law) or they also can include justifications based on discretion of substantial issues, which in principle should be decided by political bodies.

The County Municipality shall ensure that county planning is carried out continuously within the area of the county. Although the Ministry is mandated with an advisory role in county planning and the County Governor is responsible for administering tasks of the county pursuant to the Planning and Building Act, the County Council has the sole administrative responsibility for the carrying out of the county master planning and accordingly for allocating necessary resources to the planning process. The County Council's authority to adopt county master plans may not be transferred to another body. A particular aspect of county planning is that both the County Municipality and the County Governor are mandated for supervising and controlling local planning. However for the County Municipality this mandate should be considered in relation to the equalization of the planning authority of two

municipal entities. If supervising or prescriptions through collaboration is not taken into account by the Municipality, the only instrument left for the County Municipality to impose its intents on the Municipality is to issue objections. In this regard the County Authority is equipped with the same instruments as neighboring municipalities.

County planning shall coordinate the state authorities', the county municipalities' and the main features of the municipalities' physical, economic, social and cultural activities within the county. At county level the county master plan is the only statutory plan category, which also the County Municipality is obliged to prepare. When appropriate, a county master plan can be prepared for specific areas of activity or groups of projects covered by the county planning, and for parts of the county territory in terms of land use guidance. Such partial county master plans can for instance contain specific spatial aspects of the development in two or more municipalities, covering a part of the county area, or parts of two or more counties.

The county master plan should perform a basis for activity of the County Municipality. In this regard it should serve as a guideline for the activity within the county, and for municipal and state planning. Should it become relevant to deviate from the assumptions of the county master plan within the state fields of activity, the state bodies concerned should raise the matter with the county municipal planning authorities directly. The state bodies should address such deviating matters early enough to enable new or modified solutions to be included in the routine consideration of the county plan.

Due to law the county plan consists of objectives and long term guidelines for the development in the county and a coordinated program of action for the activity of the state and municipal sectors, stating how the objectives are to be achieved. The action program shall also cover the municipal sectors in so far as matters of major importance to the county or large parts of it are concerned. The plan shall also lay down guidelines for the use of land and natural resources in the county in respect of matters that will have major impacts beyond the boundaries of a municipality or which the individual municipality is unable to solve within its own area. In such situations the guidelines will have to consider joint solutions for several municipalities concerned.

County planning shall be based on economic and other resource-related conditions for its realization. In principle the same mechanisms for using financial means will have relevance for regional development planning. In general the formal linkages between land use or structural planning on the one hand and public activity planning on the other are fairly weak

and weaker than at the municipal level. The same applies for regional development planning.

Procedural and organizational mechanisms are regarded as decisive means in county planning. The chief county executive shall be administrative responsible for the tasks of the County Municipality. Every County Municipality shall have an expert planning and development administration to prepare and consider plans and to provide expert advice on planning. When needed to follow up these requirements, the County Municipality should ask for necessary assistance from state planning authorities related to the use of resources, protection and conservation, physical, social and cultural development within the county area. As early as possible during the preparation, a program proposal shall be drawn up for the planning and the environmental impact assessment process. In this early phase there will also be an announcement of the starting up of the planning process. The County Governor shall supervise that state bodies fulfill their obligations to provide such assistance. In order to carry out the planning tasks in a fruitful and collaborative way the County Municipality will establish the committees and decide the measures considered necessary for coordination, cooperation and consultation. A draft of the county plan, hereunder revisions and changes to an existing plan, should be presented at the right time.

During the plan preparation phase, the County Municipality should cooperate continuously with the municipalities in the county, and with public bodies and private organizations and others having particular interest in the county planning work. As early as possible under the preparation of the draft plan, the County Municipality will make known the proposed goals for the development of the county and the main elements of the proposed long term guidelines for the program to realize the plan. The proposals shall be presented in a form suitable as a basis for public debate, and shall be publicized in an appropriate manner.

A draft of the county master plan is submitted for comment to the County Governor, to the municipalities and to public bodies and organizations, conditionally to other entities affected by the proposal. A time limit that not should be less than 30 days can be fixed for expressing an opinion. When adopted by the County Council, the county plan is submitted to the Ministry of Environment for final approval in the King in Government Council Meeting. After the adoption there will be a public proclamation of the plan.

The County Council should evaluate fundamental conditions for the plan and its realization at least every second year, and make any necessary changes. Major changes and additions that will affect state and municipal interests will be reported to the Ministry, which decides

whether the whole plan or a part of the plan should be reconsidered. The County Council should reconsider the plan at least once during an election period. A reconsideration of a county plan implies that the legal requirements related to content, organization and handling procedures will have to be observed.

There are several opportunities for the County Municipality and the County Governor to gain influence over municipal planning. The county plan itself represents the overall regional guideline for municipal plans, to the degree the content connects to the content of the subordinate plans. During the preparation of the county plan, both the County Municipality and the County Governor will have good opportunities to advice and supervise the municipalities in their planning through the various organizational bodies involving the municipalities. In addition, the general requirements for supervising and support in municipal planning will also contribute to larger coherence in planning contents between the two planning levels.

As mentioned the county master plan, in terms of policies for the physical development, is not automatically administrative or political legally binding on the municipalities. So in situations where the municipalities are launching plan proposals contradictory to a county plan, both the County Municipality and the County Governor might need stronger legal instruments to overrule these proposals. Therefore, these county authorities are mandated with power to raise objections against plan proposals under municipal authority. This applies for all categories of local statutory plans; the land use part of the municipal master plan, the zoning plan and the building development plan. An objection is to ensure that the Municipal Council will not validly adopt the municipal plan before it is harmonized according to the requirements of these two county authorities, eventually before they have revoked their objections. The same applies for objections put forward by state sectoral authorities at county level. But at the end it is up to the Ministry to decide whether and conditionally to what degree an objection should be taken into account, cf. above.

The local tier

The legislative mandate of the Municipality, the power to adopt articles of association for the whole municipal area or a part of it and to make dispensations, can be impacting the imposed planning conditions from the superior tiers of the hierarchy of government.

This local legislation may modify, make more restrictive additions to or exempt from the provisions of the Planning and Building Act to the extent considered necessary out of regard for local conditions, unless otherwise decided in this Act. The Standing Committee for

Planning matters is empowered to grant dispensations regarding the general prohibition against building on and partitioning off a property inside the 100 meters wide belt along the shoreline to the sea. Moreover, dispensations can be granted to avoid the duty to prepare a zoning plan and to revoke a temporary prohibition against subdivision and construction work. A temporary dispensation implies normally that the area or property after the expiring time has to be restored to a situation without dispensation, or to the conditions set previously. The dispensation can also be made subject to a declaration, where the owner or the holder of rights on his part accepts these obligations. A dispensation can be publicly registered. It is binding on the mortgage and other holders of rights to real property without regard to when the right was established and whether the declaration is registered.

Dispensation from existing regulatory frameworks requires specific information procedures, except when the application for dispensation is submitted together with a building application or when the application obviously does not affect the neighbor's interests. In connection with dispensation from the stated statutory plans, the County Governor, the County Municipality and the sectoral state authorities whose area of responsibility will be directly affected shall be given the opportunity to express their opinion before the exemption is granted.

Municipalities shall carry out continuous planning with a view to coordinating physical, economic, social, aesthetic and cultural development within their own areas. The Municipal Council is responsible for and shall administer municipal planning and work on zoning plans in the Municipality. In each Municipality there shall be a Standing Committee for Planning Matters. In municipalities with a parliamentary system of government, the Municipal Council itself may assign this committee's functions to the Municipal Executive Board. The Municipal Council shall designate a head of department or other civil servant who shall have particular responsibility for safeguarding the interests of children when the Standing Planning Committee prepares and considers proposals for plans.

The head of the municipal administration is administratively responsible for the Municipality's planning functions. Other public bodies with tasks concerning use of resources, protection and conservation, physical development, or social and cultural development within the area covered by the Municipality shall give the Municipality necessary assistance in planning activities. Such bodies shall, at the request of the Municipality, participate in advisory committees established by the Municipal Council in order to promote cooperation in planning. A particular connection to the planning of roads is emphasized. The Public Roads Administration may prepare and submit road surveys and

draft of statutory plans for county and municipal levels, including variants like partial county plans, partial municipal land use part of the municipal master plan, zoning plans and building development plans. Decision to present such plans for public inspection may be taken by the Public Road Administration. Information to the County Governor, County Municipality and the Municipality about the planning work is obligatory. Draft plans submitted by the Public Road Authority should the County Municipality, contingently the Municipality, consider without delay.

Municipal planning shall be based on financial and other resource-related prerequisites for the realization of plans. A land use plan and a program of action may be prepared for parts of the municipality and a program of action for specific areas of activity.

The main municipal planning instruments are connected to the three statutory categories of plans; the municipal master plan, the zoning plan and the building development plan:

(1) The municipal master plan
A municipal master plan shall be prepared in each municipality. Except the rare situation when the Ministry requires preparation of a municipal master plan, the sole authority to initiate municipal master planning is the Municipal Council. A municipal master plan should form the basis for planning, management and development in the municipality. The plan is legally binding on the uses of land. Building projects must not conflict with provisions laid down in the final plan for land use, unless otherwise provided. The same applies to other measures, which may be of major disadvantage for the realization of the plan. Unless otherwise provided, the land use part of the municipal master plan takes precedence over older provisions concerning state policies, a zoning plan and a building development plan, but lapses to the extent that it contravenes such provisions that are made to apply later.

The municipal master plan should comprise a long-term and a short-term component. The long-term component consists of goals for development in the Municipality, guidelines for sector planning and a land use part for the management of land and other natural resources. The short-term component consists of a coordinated program for the action of municipal activities during the next few years.

As far as necessary the land use part of the municipal master plan should designate use of land in 6 main categories as: building areas; agricultural areas, natural areas and areas for open-air recreation; areas for extraction of raw materials; other areas that are reserved or are to be reserved for specifically defined purposes and areas reserved for the defence

forces. In addition, the plan can designate areas for special use or protection of sea and watercourses, including areas for traffic, fisheries, aquaculture, nature areas and open-air recreation areas separately or in combination with one or more of the mentioned land-use categories. Lastly, land for important links in the system of communications is also a separate land use category.

If deemed necessary, there are statutory possibilities for the municipality to formulate supplementary provisions for the protection of nature and the environment. Furthermore, supplementary provision can be laid down for the development in rural areas, for the staging of the development due to the provision of infrastructure services and facilities and for the use of plan categories in planning of roads or certain projects in the roads network.

The land use part of the municipal master plan covers the whole municipal area. However, this plan category can also be delimited to specific areas of the municipality if necessary, normally with a more detailed scope on land use and regulatory framework. It means that the land use part of a municipal master plan can consist of one plan covering the whole municipality, and in addition, one or several more detailed partial land use parts of a municipal master plan for specific purposes. In addition a program of action may be prepared for parts of the municipality or for specific areas of activity.

In good time before the municipal master plan is considered by the Municipal Council, the Municipality shall make sure that the most relevant matters in the municipal planning work are made known in a manner found appropriate, to enable the planning entity to make the preparation of the plan a topic for public debate. The draft of the master plan shall be sent to the County Governor, the County Municipality, affected state bodies, organizations or other entities that have a particular interest in the planning work, and shall be made available for public inspection. A time limit, which must not be less than 30 days, may be stipulated for expression of an opinion. The case shall then be submitted to the Municipal Council for decision. The procedure regarding participation and public inspection do not apply to the updating of the Municipality's overall program of action.

If no objection is raised against the plan and the Ministry does not require review, the Municipal Council's adoption of the plan is final. If objections are connected to clearly delimited parts of the plan, the Municipal Council may nevertheless decide that the rest of the plan shall be legally valid. If the County Governor, the County Municipality, a neighboring municipality or affected state sectoral authorities have objected to the land use part of a municipal master plan, this part shall, after a decision by the Municipal Council, be

sent to the Ministry for approval unless the Municipality has taken the objections into account.

When the whole municipal master plan, the land use part or the updated program of action have been finally adopted by the Municipal Council with all legal effects, a copy will be sent to the Ministry, the County Governor, the County Municipality and affected state sectoral authorities for information. When the plan is final, it shall be made public, i.e. officially proclaimed in an appropriate manner in the municipality. The Municipal Council's and the Ministry's decision to approve the plan or to alter the land use part of the plan cannot be appealed.

At least once during every election period the Municipal Council shall evaluate the municipal master plan as a whole, including whether it is necessary to change it in any way. The procedures for preparation and approval of municipal master plans apply correspondingly when considering the land use part or a program of action related to parts of the Municipality or specific areas of activity. The same applies for revising of the municipal master plans or the main elements of such a plan alone.

(2) The zoning plan

A zoning plan is a detailed plan connected provisions or regulations, which regulates the use and protection of land, watercourses, sea areas, buildings and the external environment in specific areas in a municipality. This type of plan should be prepared for areas in the municipality where it is decided in the land use part of the municipal master plan that development or certain specified categories of change may take place only in accordance with such a plan, and for areas where large building and construction works are to be undertaken. Building permission for projects requiring building application and permission may not be issued until a zoning plan has been prepared and adopted. Furthermore, zoning plans should also be prepared to the extent necessary to ensure realization of the integrated planning pursuant to the Planning and Building Act. When buildings have been destroyed by fire or in some other way, the municipality shall immediately consider whether the area needs to be zoned or rezoned.

The scope of the zoning plans should be sufficiently limited to enable them to be realized within a reasonable period of time. State policy provisions, the county master plan and the land use part of the municipal master contain guidelines for the preparation of zoning plans. A zoning plan is legally binding on uses of land including floor space, and constructions within the planning area.

In opposite to the municipal master plan, the Municipality, i.e. the Municipal Council, does not hold the sole authority to initiate zoning plans. Any entity, landowners, other holders of rights or other interested parties, public as well as private, has the right to start preparing of zoning plans and then submit the zoning proposals for municipal handling. However, before commencing the planning tasks, such external initiators of zoning plans should submit the zoning issue to the Standing Planning Committee, which can give advice about whether the plan should be prepared, eventually how the committee can assist in the planning work. When an externally prepared zoning plan is submitted for municipal handling the Standing Committee for Planning Matters shall consider the proposal as soon as possible and within twelve weeks. But the entity submitting this proposal and the Municipality can agree on another time limit. If the planning committee itself finds no reason to present a zoning proposal for the actual area, the submitting entity of the proposal shall be informed by letter. If the proposal refers to formerly unzoned areas or entails a significant change in an existing zoning plan, the entity submitting the proposal can demand that the zoning issue should be put forward to the Municipal Council for consideration.

In addition to the territorial scale, the content of a zoning plan is characterized through its categories of land use and the associated zoning provisions. A zoning plan shall to the extent necessary designate 8 statutory categories of land uses. Each of these comprises several under categories of land uses:

Building areas include the ordinary use of land for building purposes as dwellings, shops, offices and industry, but also leisure purposes, buildings specifically defined for public uses, garages and petrol stations. *Agricultural areas* include areas for biological extraction activities like farming (also reindeer farming), forestry and gardening with the associated buildings for these kinds of uses. *Public traffic areas* contain a wide category of uses for transportation purposes, as roads, streets, pavements, footpaths, biking paths, bridges, canals, rail- and tramways, parking areas, bus stations, harbors, airports, courtyards, squares and other traffic facilities as well as necessary land for installations and traffic safety constructions, etc. *The public outdoor recreation category* contains parks, hiking trails, camping sites, and land and sea areas for play and sport. *Danger areas* might represent hazard to the public either through pure man made constructions and installations like high voltage installations, shooting ranges, storages of flammable goods or explosives, etc. or from natural generated risks, for instance landslide and flooding risk areas. Building is not permitted in danger areas, or contingently, should only be permitted on special conditions out of consideration for safety. *Special areas* are a huge category of various specifically

defined land uses, like private roads, camping, areas for installations in the ground, in watercourses, or for marine installations. To this category belong buildings and installations, which should be preserved on account of their historical, antiquarian or other cultural value as for fishing settlements, reindeer farming areas, and areas for open air recreation that are not included under public outdoor recreation areas. In addition, special areas include green corridors in industrial areas, nature conservation areas, climate conservation zones, water supply sources with catchments areas, graveyards, golf courses, amusement parks, etc., together with quarries and soil extraction sites, installations for defense purposes and several infrastructural related installations. *Common areas* are for common uses serving several properties, like common exit roads, common parking areas, playgrounds for children or courtyards. Urban areas, which are to be totally renewed or upgraded, are defined as *areas for renewal*.

A zoning plan can designate several land use categories within the same planning area or the same building. But the land use categories public open air recreation and nature conservation area under special areas can not be combined with the category agricultural area. In the consideration of categories it may also be stipulated that an area or a building, after a particular defined period of time or when other specific conditions have been fulfilled, shall be transferred from one land use category to another.

The zoning plan will include provisions formulated to the extent necessary. These provisions give legally binding directions concerning the use of land and floor space and the design of constructions or buildings within the planning area. In this regard, provisions should stipulate the smallest play area required for each dwelling unit and lay down further rules for the content and design of such areas. In general, provisions can impose conditions for use or can prohibit certain kinds of use in order to promote or ensure compliance with the purpose of zoning. Moreover, it can be required that measures in pursuance with the plan should be implemented in a special order. No provisions may be laid down concerning the discharge of water or the water level.

The zoning plan is the main operational planning instrument for regulating building activities and the use of land. It is within the responsibility of the Municipal Council to ensure that the Standing Committee for Planning Matters has proposals for zoning plans prepared according to the required duty to prepare zoning plans, i.e. in areas designated according to the land use part of the municipal master plan where developments or other kinds of changes my take place due to a zoning plan. A part of this responsibility is to control that zoning plans are taken up for revisions, as the current circumstances require. For this

purpose the Municipal Council can give this Committee necessary directions and general guidance for the planning work. In the same way the Municipal Council can also order the Committee to prepare a new or to revise an existing zoning plan for areas and activities that are not subject to regulatory obligations for preparing zoning plans. Zoning plans should be prepared by experts, and should be presented in a uniform and understandable form.

When an area is to be zoned, the Standing Committee for Planning Matters should ensure that the starting of planning tasks is announced publicly. This announcement should describe the intended purpose of the zoning and the expected consequences for the planning area and its neighbors. Landowners and holders of rights should be notified by letters in which they should be given a reasonable time limit for expressing their opinion before the Committee eventually considers the zoning proposal. When zoning or rezoning areas with existing buildings, the committee should ensure that persons living in the area or persons engaged in commercial activity in the area will have the opportunity to participate actively during the plan preparation phase. However, there are no statutory requirements either for the organizing of this active participation or for documenting that an aimed participation has taken place. The Standing Committee for Planning Matters is furthermore responsible for cooperation towards other public authorities, organizations and other entities having particular interests in the planning work. Such cooperation with external bodies should be established at an early stage.

A zoning proposal that meet formal requirements concerning preparation and presentation should be submitted to the Standing Committee for Planning Matters. The Committee decides whether the proposal should be made available for public inspections. Announcements for inspections should clearly define the planning area and should state a time limit, usually not less than 30 days, for comments. Holders of rights to real property within the area should be informed by letter. In connection with the announcement for public inspections, this Committee shall submit the proposal to neighboring municipalities, the County Governor the County Municipality and the state sectoral planning bodies that have special interests in the area. They should have a reasonable time limit for delivering their opinions. Their eventual objections and requirements should be submitted within the same time limit. After expiring of the time limit, the Committee will take up the zoning proposal for consideration, together with the received comments and the possible objections. When the Committee has concluded its considerations the zoning proposal will be submitted to the Municipal Council for a decision, if necessary with alternatives. The Municipal Council will have to decide within twelve weeks after the Standing Committee for Planning Matters has finished its consideration of the plan.

If objections to the plan have been received, a zoning plan that has been adopted by the Municipal Council must be sent to the Ministry of Environment. The Ministry decides whether the plan should be confirmed. If it confirms the plan it may, after the municipality has been given the opportunity to express an opinion, make such changes in the plan as are found necessary. Anyhow, this should not lead to any changes in the main features of the plan.

In the event confirmed, the Municipality shall proclaim the plan adopted in at least two newspapers as soon as the adoption has taken place. This announcement should clearly state the area covered by the plan and inform about the time limits for landowners to claim compensation as well as to require immediate realization or expropriation of the property. The Municipality shall have decisions concerning zoning of areas for renewal, with eventual restrictions on use of land and buildings, registered in respect of the affected properties. Holders of rights to land and buildings in such areas should receive special notification by letter. This notification will contain information about the right to appeal and the time limits for claiming compensation and requiring immediate expropriation. The Municipal Council's final decision in zoning matters can be appealed to the Ministry. This appeal shall be submitted to the Standing Committee for Planning Matters, which, if it finds grounds to allow the appeal, submits the matter to the Municipal Council together with a proposal for changing the decision. Alternatively, the Committee can express an opinion and send the matter via the County Governor to the Ministry.

Copies of the adopted zoning plan should be sent to the Ministry, the County Governor and the County Municipality. If the Ministry finds that a zoning plan finally considered in the Municipality is violating the interests of state authorities, the county master plan or the land use part of the municipal master plan, it can, after the Municipality has been given an opportunity to express an opinion, at its own initiative cancel the plan or make such changes to the plan found necessary. Neither in this case should changes made by the Ministry alter the main features of the plan. The Ministry's decision in zoning matters cannot be appealed.

In the case of alteration or cancellation of a zoning plan the rules regarding preparation and decisions shall apply accordingly, however with certain exceptions. The Standing Committee for Planning Matters can consent to less important changes to a zoning plan. Changes that can lead to increased costs for the Municipality should be submitted to the Municipal Council in advance. Should the zoning plan refer to state and county roads, less important changes as a result of technical conditions during the period of implementation can be made by the

Public Road Administration, the Regional Road Department. Likewise, the planning committee can decide the parceling of land if the subdivision of lots is not fixed in the plan. Before decisions on such less important changes are made, holders of property rights directly affected by the changes should be given an opportunity to express an opinion.

Although the zoning plan is a statutory plan category, there are in practice several possibilities for varying both its regulatory procedures and territorial delineations:

Concerning regulatory content, the simplified zoning plan is a particular statutory subcategory of the zoning plan. This variant can be used in specific building areas where the zoning provision could be limited to the determination of the land use categories and the density of developments. Furthermore, provisions related to methods of calculation can be laid down in regulations. In the case of certain building areas, it can be required that building development plans should be prepared on a later stage for the upcoming building projects. In practice it is up to the initiator of a zoning plan and the planning authority to decide the delineation of the planning area. Since the right to initiate new zoning proposals is free, most of the zoning plans initiated externally to the municipal planning authority are delineated to building plots, i.e. the property borders of a single plot. Such zoning plans will just cover very limited areas and will rarely cross the borders of two or more properties. Zoning plans initiated and prepared by the municipalities have usually a wider territorial scope covering areas that comprise several properties.

(3) The building development plan

A building development plan determines land use and design of buildings, installations and associated outdoor areas within a specifically delimited area where, according to the land use part of a municipal master plan or a zoning plan, where such a plan is required as a basis for considering of the development. Within the framework of the land use part of the municipal master plan or a zoning plan and the land use categories of the latter, a building development plan can provide for any supplements or changes to such plans as are considered necessary to implement the development.

In the Municipality, the Standing Committee for Planning Matters is mandated to initiate building development plans and has the authority to adopt such plans. But as for zoning plans the right to initiate and prepare this plan category is free, provided competence for preparation. A finally adopted building development plan is also immediate legally binding on all projects requiring building permission.

The preparation of a building development plan should follow the procedures for the preparation of a zoning plan with regards to the responsibilities of the Standing Committee for Planning Matters. If a private person or another external entity has initiated and prepared the plan, the same rules for the municipal handling apply correspondingly.

Before the proposed building development plan is adopted it shall be made available for public inspection according to the same procedures as for zoning plans. If the plan engenders other than minor changes to the land use part of the municipal master plan or to the zoning plan for the actual area, the plan has to be submitted to the County Governor, the County Municipalities, neighboring municipalities, and eventual state sector authorities that have special interests in the area. If any objection to the plan is received from these external authorities, the plan must be sent to the Municipal Council and handled in the same way as a zoning plan. As soon the plan has been adopted, the Municipality shall proclaim it publicly and inform landowners and other holders of rights in the same way as for a zoning plan. Decisions of the Standing Committee for Planning Matters concerning a building development plan may be appealed to the Ministry. When it comes to changes in a building development plan the procedures for preparing and handling of the plan for approval apply correspondingly.

Implementation at local tier

All these statutory plans will, depending on the situation, in some or another way, represent the legal basis for the development control. It implies that both these plans including related provisions for gaining public land control and procedures for distributing responsibilities for urban development costs, are important factors for the implementation of projects. The possibility for the planning authorities to use planning instruments in order to secure public access to land is in Norwegian planning traditionally regarded as an effective strategy for achieving public control with the development of land as well as a fair distribution of urban development costs. But there are situations, particularly engendered by the free right to initiate plans that will require specific instruments for the distribution of urban development costs. The available legal instruments in this regard are discussed under the headings of building permitting, public compulsory acquisition of land and other implementation procedures.

(1) Building permitting

The permitting system distinguishes between construction works that require application and building permission and works requiring just notification to the municipal building authority. In general, construction works on the ground, underground, in watercourses or in marine

areas, must not be carried out until a prior application, or an application for dispensation as the case may be, has been sent to the Municipality and it has subsequently been granted permission.

Such projects are included in the following ten characteristics as: Erection of, addition to, extension of, underpinning or positioning a permanent, temporary or transportable building, structure or installation. For these kinds of projects permission according to application is required for three project categories: Alteration of exterior, significant alteration or significant repair; and further for alteration of use or significant extension or significant alteration of pervious operation of these projects; and finally, demolition. The remaining six characteristics of the projects are: Erection, alteration or repair of technical installations; division or combination of occupancy units in dwellings and other reconstructions intended to convert dwellings to another purpose; erection of fencing against road, signs or advertising devices and the like; division of property or establishment of a unit that can be leased out for a period exceeding 10 years, not done in the course of land consolidation due to a legally binding plan; significant encroachment on the terrain and at last construction of roads or parking lots.

Projects exempted application and permission for their implementation are in main agricultural buildings; temporary or transportable buildings, structures or installations; secret military installations; minor projects on developed properties on specified conditions; and building works within the area of particular enterprises. Specified conditions met, such projects require notification to the building authority. This notification shall be in writing and shall provide relevant information concerning the plans applicable to the work. The developer is responsible for ensuring that exempted projects are being implemented in accordance with the requirements.

In opposite to the free right for initiators to propose detailed plan for developments, zoning and building development plans, the building permitting system requires a responsible applicant and a responsible designer of the building project as well. The responsible applicant for a building permit should act as a connecting link between the responsible designer, the responsible contractor, the responsible controller, the developer and the Municipality. A responsible applicant should ensure that the application documents meet all the relevant requirements of provisions according to law and other rules and regulations, unless it is otherwise stated in the application. Both the responsible applicant and the developer should sign the application for a permit. When the responsibility for project design, execution and control is divided, the responsible applicant shall coordinate the

application and ensure that responsibility for all functions has been duly assigned, and confirm this in writing in the application.

This division of individual responsibility has to be clearly evident from the application. The Municipality will have to decide whether the responsible applicant and the enterprises responsible for design should be approved or not in each individual case. Enterprises acting as responsible for design shall document that they are adequately qualified for the individual building assignment. The Municipality has the authority to grant personal responsibility in special cases, and has the authority to withdraw the approval of permissions at any time. The conditions for such withdrawals is that the Municipality finds that the enterprise responsible for design fails to meet the necessary requirements as regards reliability and competence or that the enterprise has, in the case in question or previously, shown that it is not professionally competent for the task.

The considering of a building application will in main deal with two issues. There has to be an evaluation whether the project can be implemented within the prescribed regulatory frameworks of plans, and in this regard confers the right to commence preparatory measures. Then follows the obligatory evaluation of technical character related to the design of constructions and to the performing of building works. This division opens up for a two-step staging of the permitting process, one ending with issuing of a general permission and the other one with issuing of the grant to start the building works.

Although the zoning plan is the most common basis for building permitting, all the statutory categories of plans at local tier can be used as the closest legal reference for permitting, cf. the figure below. Since all these plans, the land use part of the municipal master plan, the zoning plan and the building development plan, are legally binding, they all give some legal certainty for the landowner and the building market as well as the public concerning where and how to build. Moreover, this legality will also have some bearing on the planning authority. Besides, there is also some flexibility in using the regulation methods, in displaying physical requirements in land use and densities on the plan map and in formulating of the provisions.

Figure 2 explains possible plan procedures for executing the development control and the plan in question for obtaining a building permit. At least, 4 procedures are possible; of which 2 is the most common in general. Procedure 4 is most common in rural areas.

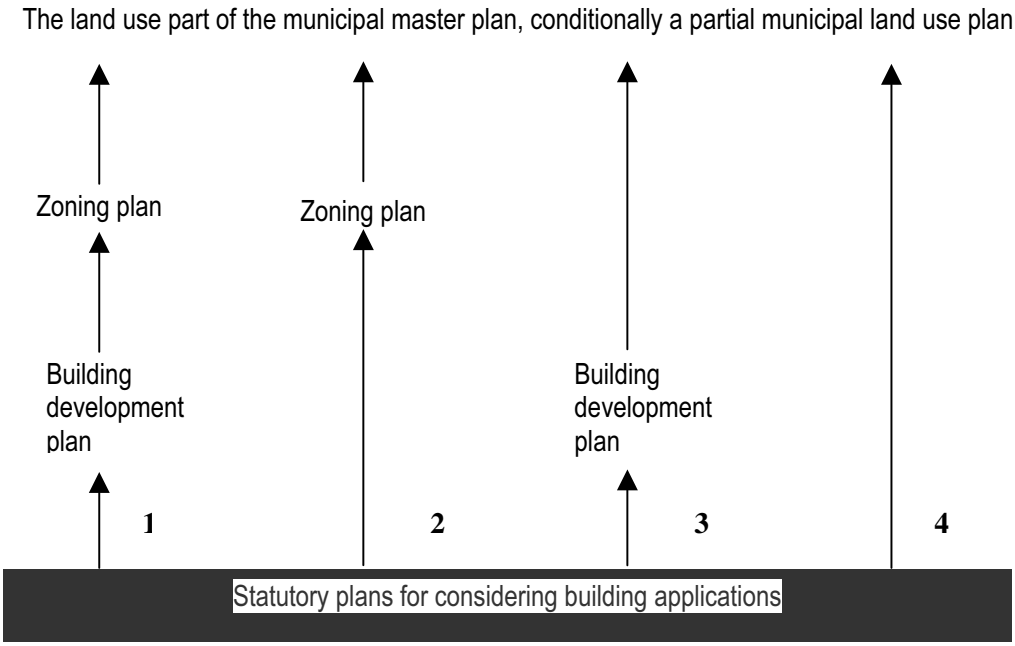


Figure 2: *Possible plan procedures determining the planning process for executing the development control by plan categories constituting the legal basis for building applications and permitting.*

(2) Compulsory public acquisition of land

The Expropriation of Property Act gives the State and the municipalities a general authority to compulsory acquisition of land for specific public purposes. But the most common legal basis for compulsory public purchase of real property is the Planning and Building Act.

Both state authorities and the Municipal Council can effect expropriation for the purpose of realizing a zoning plan or a building development plan, except for land designated as agricultural areas in the actual plan. However, the legal justification to expropriate is not limited to zoning purposes. In order to obtain suitable lots, the municipalities can due to decisions in respective municipal councils, expropriate undeveloped parcels or parcels of which the buildings are of minor financial or practical values, provided that the plan states that building on these parcels cannot be undertaken independently. Furthermore, as far it is necessary for the realization of these plans, the Municipal Council can, with consent of the Ministry, extend the expropriation to include temporary, eventually permanent encroachment on property rights outside the zoning area. Such consent is not necessary in the case of land for road cuttings and fillings outside the zoning area. Besides, for sewerage installations for a zoned area, the Municipal Council can with the consent of the Ministry

effect expropriation outside the ground acquired for the road for the purpose of pipelines and appurtenant devices. This applies also for water pipes.

Before the Municipal Council makes decisions on expropriation the matter should be thoroughly clarified, and the persons who are to be affected by the encroachments shall be given the opportunity to express an opinion. According to the Expropriation of Property Act the Municipal Council has a particular responsibility for considering whether the matter is properly clarified or not, as well as the responsible state authorities are obliged to undertake similar consideration in case the State is the expropriator.

There are also certain possibilities for municipal expropriation independent of an existing zoning plan or building development plan. With consent of the Ministry, the Municipal council can effect expropriation in order to secure the municipality land for new built-up areas. The same applies for the purpose of zoning in areas that has been destroyed by fire or otherwise. Expropriation can also be used in specific situations where the Municipality finds reasons to react to the will of individual landowners. If an owner does not comply with the provision of an improvement program in a built-up area, the Municipal Council can with the consent of the Ministry expropriate all or parts of the property for the purpose of implementing the program. In all these cases the Municipality has to follow all procedures regarding clarifications of the matter, information to and involvement of the actual parties concerned as for expropriation based on a zoning plan or building development plan.

In general, private landowners or developers have limited possibilities to require compulsory acquisition of land, assuming that the Municipality is not willing to expropriate on the basis of zoning or building development plans, or otherwise on behalf on these interests, for a later transfer of the acquired property to private ownership. A landowner has the right to expropriate for the purposes of access, sewerage installations and common areas and for green belts in industrial areas, if the zoning or the building development plans decides that no lot subdivision or building approval should take place before the said conditions relating to such purposes are properly met. The Municipal Council needs to give its' consent to the expropriation. Another opportunity is in the event of expropriation of land designated as renewal area, according to a zoning or building development plan. In this situation the Municipal Council can consent to another legal person who is to be responsible for the renewal having the right of expropriation. And finally, the Municipal Council can make it a condition for granting a building permit that the applicant of this permit acquires smaller parcels of undeveloped land or parcels on which the buildings are of minor financial or practical value in order to give the building lot a more suitable boundary or form. For this

purpose the municipality can consent to the applicant effecting the necessary expropriation. In all these cases, the municipality has a particular responsibility in securing that all the legal procedures are followed.

(3) Other implementation procedures

In principle, in line with the tradition for distinguishing between public and private tasks, the planning system is based on a more or less clear-cut division of responsibilities, between public entities on the one hand and landowners and developers on the other, for the covering of urban development costs.

Onsite investments for developing of raw land and providing infrastructure to the building plot(s) should normally be covered by the project, while offsite investments whether infrastructure or facilities should be a public responsibility. External infrastructure costs could represent an exception, if they according to the plan should be considered necessary for the implementation of the project. Community facilities, like public kindergartens, schools, health and social facilities, including necessary land, should in main either be provided by the Municipality or the State, depending on responsibility. Based on these conditions there will be less need for planning instruments either to exact landowners and developers for the provision of these services or for the distribution of the costs between landowners or development projects.

Besides, for water infrastructure there is a fee for connecting to the main network, either onsite or offsite. The principle of betterment and compensation is formally unknown in the planning system, and likewise different kinds of fees calculated for individual projects in order to cover infrastructure and community facilities costs.

Except for expropriation, a kind of betterment fee for the refunding of infrastructure costs, is the only instrument that until recently has been used for these kinds of purposes. This kind refunding can be used for the reimbursement of costs incurred through the building of roads and lines for the transportation of water and sewer. Any person, who has built, re-built or extended an approved public road or approved public installation for transporting water or wastewater may claim to have the costs refunded. Private claims for a refund of costs are subject to the condition that the roads or the lines have been imposed in accordance with municipal conditions for access to these services before subdividing of plots or building of new developments.

A refund of costs for these kinds of constructions is charged to an undeveloped area that can be built on, provided that there are lawful connections to this kinds of infrastructure. An undeveloped part of a developed property is to be regarded as an undeveloped area when the undeveloped part can be built on independently. The same applies to a part of developed property that can be built on independently, if existing buildings constitute less than two thirds of the permitted utilization. An area with buildings, which in the opinion of the Municipality are due for demolition or which for other reasons have a clearly lower value of the site they occupy, is also regarded as undeveloped. Lastly, a refund is to be charged to developed land that has been granted a temporary postponement of the fulfillments of its obligations for providing these infrastructure facilities, if such obligations are met through these constructions.

Moreover, a refund can be claimed by a person who is in accordance with a zoning plan or a building development plan has provided land for or developed a common exit road, common courtyard, other area common to several properties or a green belt along an industrial area. Finally, anyone who has built, altered or extended installations for transporting water or wastewater in an area that is included in a zoning plan or a building development plan, can claim refund of costs. The reimbursement of these costs is to be charged to the areas they are intended to serve according to the zoning plan or the building development plan. In case of areas that are wholly or partly developed, the same rules apply as for refunding of costs in areas independent from these categories of plans.

The area to be charged for the refunding of costs is delimited with reference to the plan for the project, which is considered as the refund unit. The calculation of costs to be distributed is based on legally stated factors, and the approval of distributed costs on properties within the refunding area has to observe public procedures in the municipality. In this process, there is also an opportunity for owners involved to require external valuation of costs and benefits, or that the developer of the projects concerned should purchase the actual area.

Two expert committees (planning and building) have been considering the needs for a more comprehensive legislation in relation to the Planning and building Act regarding possibilities to exact private contributions for the purposes to finance public services, whether ex ante or ex post of the adoption of zoning regulations. A particular purpose in this regard has been to regulate the use and content of development agreements negotiated during the preparation of detailed development plans. Formerly such agreements were legally based on the Contractual Law. The rules adopted in the Planning and Building Act regulate the use of development agreements negotiated during the prepatory stage of such plans before the

final adoption, i.e. under the rule of regulatory power. When it comes to public and private responsibilities for contributing to urban development costs the new legal conditions are more or less confirming the existing principles embedded in this Act.

2.3 Binding character

In principle, the Planning and Building Act constitute a hierarchy of authorities based on some kinds of binding symmetry between the administrative levels. This applies in principle for the state administrations: the central government versus the subordinate decentralized state or regional state administrations. However, since there are possibilities to adopt legally binding plans contradicting superior regulations, this principle of vertical symmetry meet severe challenges in practice, particularly at local level.

The hierarchy between the two municipal levels is, as mentioned earlier, not that clear. Formally, the two kinds of municipalities are equal in political-administrative power. The hierarchy is more or less based on functional divisions of labor related to responsibilities for the provision of public services depending on certain economics of scale. In land use and structural planning the zoning or structural elements will somehow be functionally overlapping, but without introducing an unambiguous hierarchy of plans in terms of regulatory power for directing future developments. In case the County Municipality wants to react on local plans and the Municipality is not willing to compromise, it will normally have to raise particular measures in terms of objections against these plans. But an objection will not in itself ensure the intents of the County Municipality since it is up to the Ministry to consider this objection in relation to the plan, and in this regard strike a balance between the interests at local and regional levels.

In addition to the binding capacity over levels of government, the binding character of the different categories of plans needs to be considered towards the symmetry over the levels or hierarchal ordering. Because all statutory plans at the local tier are legally binding any disputable contradiction between superior and subordinate local plans can have some legal impacts on authorities and stakeholders involved. In this regard the planning system is based on three principles that should be mentioned.

Firstly, there are no strong requirements for a coherent symmetry in regulations between the various categories of plans at different territorial levels or for different purposes. A Municipality can for instance formulate provisions for the land use part of the municipal master plan and the zoning plan in the same way and to almost the same degree of specifications. Since the Municipality is not in an exclusive position to formulate provisions

for zoning and building development plans, a coherent and undisputable symmetry in regulations over the actual level of plans can hardly be expected.

Another characteristic with consequences for the binding capacity at local level is the principle stating that the latest adopted legally binding plan for the same situations takes precedence over previously adopted plans. If no objection is raised and the plan does not contradict the interests of the State, a municipality can adopt subordinate plans, which somehow contradicts plans of superior levels within the municipal territory. In consequence, a possible coherent symmetry of regulations over the levels of plans will be broken, provided that the last adopted plan just covers a part of the previous planning area, as normally will be the case for zoning or building development plans compared to the land use part of a municipal master plan.

The third principle succeeds the second one with particular impacts on requirements for revision of plans and on the information value of planning documents. If a subordinate plan proposal should contradict a superior plan there is no requirement for an immediate revision or updating of the superior plan before the subordinate plan proposal can be adopted. It means that superior plans like the land use part of the municipal master plan, a partial land use part of this plan or a zoning plan used for overall or strategic purposes, can gradually be changed in bits and pieces for smaller part of the respective planning areas. There is any other requirement for revision or updating of superior plans before adopting a contradicting plan than the general responsibility for the Standing Committee for Planning Matters to initiate considerations for possible needed revisions, updating or preparation of new plans.

2.4 Possibilities of complaining and filing of lawsuits

Due to the Administration Act there is a general right to raise complaints, i.e. appeals against planning decisions. However, the county master plan and the land use part of the municipal master plans are exceptions from this legal requirement, which is limited to the detailed categories of plans and permitting. Nevertheless, the initiator of a zoning plan or a building development plan cannot appeal negative planning decisions to higher planning authorities, neither when it comes to disputes on legal matters. It should also be observed that complaints on the same issues should not be repeated over several planning levels including permitting.

The handling of cases is administrative led. Consequently, complaints or conflicts cannot be brought to the courts before the administrative handling is ended. If a conflict should turn into a lawsuit it will be settled in the ordinary court system.

2.5 Planning necessity and voluntariness

Although the planning system contains several categories of statutory plans reflecting different planning levels, only two of them should be regarded as obligatory, and one obligatory on certain conditions.

The county master plan with the connected land use or structure plan, the municipal master plan and its land use part are the obligatory comprehensive planning instruments for the County Municipality and the Municipality respectively. Planning authorities at county and local levels are obliged to initiate processes for these kinds of planning, as well as they are committed to the responsibility for having the two types of plans prepared or revised. Both the County Municipality and the Municipality can themselves choose whether they will prepare the obligatory plans or they will contract out the operational planning tasks, fully or partially, to external entities.

With certain legal exceptions the zoning plan is the obligatory legal basis for development control. A zoning plan is normally required for obtaining a building permit in urban areas. But in opposite to the two overall plans, the planning authority does not have a monopoly to initiate zoning plans, although it can require preparation of such plans. Moreover there is an obligation for the planning authority to handle these plan proposals for an eventual approval. For the detailed plans, the planning authority within the Municipality is just mandated with the power to say yes or no to these proposals, provided that the planning authority does not decide to carry out competing alternatives.

For the building development plan it is up to the local planning authority to decide the use of it. The same applies for the voluntary variants of the obligatory plans, as the partial land use part of either a county master plan or a municipal master plan, eventually variants regarding the regulatory content of the zoning plan. Likewise it is up to the planning authority to decide the use of the statutory simplified zoning plan. But probably, superior authorities will have a saying on an eventual choice between a simplified zoning or a full zoning.

As supplements or alternatives to the statutory categories of plans, the planning authorities can choose to prepare non-statutory types of plans, i.e. types of plans not mentioned in the Planning and Building Act. Such plans will not have any legal impact on the use of land, but can still have a political and administrative binding impact on the judgments of the planning authority.

. 3. Planning levels and specific aspects

Aspect / Level	Planning institution(s), scope, binding character	Planning process	Participation	Plans	Sectoral planning A	Sectoral planning B	Sectoral planning C	Sectoral planning D
National level	<u>Ministry of Environment</u> • Planning law • Administrative regulation • Laws related to planning • Subordinate legislation <u>Ministry of Local Government and Regional Development</u> • Building Law • Administrative regulation • Municipal Law • Laws related to planning <u>Other ministries</u> • Laws related to planning • Subordinate legislation <u>Directorates</u> • Standards	• Legislation • Public inspections • Planning upon ministerial request, municipal procedure • Legislation • Public inspections • Legislation • Public inspections • Objections	• Public information • Directed informal hearings • Announcement of planning, public information, notifications, review • Public information • Directed informal hearings • Review • Public information • Directed informal hearings • Review • Administrative collaboration • Review	• White papers • Policy provisions • Policy guide-lines • Land use mas-ter plan and local develop-ment plan • White papers • White papers • Statutes • Regulations	• Natural environment • Nature conservation • Cultural heritage • Roads, rails, harbors, aviation	• Water, energy	• Education, culture	• Health, social welfare

Aspect / Level	Planning institution(s), scope, binding character	Planning process	Participation	Plans	Sectoral planning A	Sectoral planning B	Sectoral planning C	Sectoral planning D
Regional level	<u>County Governor</u>	• Planning legal control • Objections	• Public information • Directed informal hearings • Review • Administrative collaboration • Mediation		• Natural environment • Nature conservation		• Education	• Social welfare
	<u>Decentralized state sectoral authorities</u>	• Sectoral planning • Objections	• Public information • Directed informal hearings • Review • Administrative collaboration	• Sectoral plans	• Roads, rails and harbors			• Health, hospitals
	<u>County Municipality</u> • Regional planning authority	• Comprehen-sive planning • Objections	• Announcement of planning • Public information • Cooperation towards other authorities • Proclamation of adopted plans	• County master plan	• Cultural heritage			

Aspect / Level	Planning institution(s), scope, binding character	Planning process	Participation	Plans	Sectoral planning A	Sectoral planning B	Sectoral planning C	Sectoral planning D
Sub-regional/ local level	<u>Local Municipality</u> • Planning and permitting authority • Articles of association	• Comprehen-sive planning • Objections against planning in neighboring municipalities	• Announcement of planning • Public information • Notification • Public review • Informal participation • Inter-municipal cooperation • Proclamation of adopted plans	• Municipal master plan, land use plans and permitting				

Table 5: *Planning levels and specific aspects*

4. Interdependencies

4.1 Hierarchy of planning levels

The hierarchy of public activity planning and regional development planning is by and large based on a functional division of labor between the different levels. At any level types of plans physical planning shares more extensively similarities both in substantial contents and procedures. The practical implication is that there will be some kinds of overlapping between planning levels, at least when it comes to plans under local planning authority. However, some overlapping might occur in the division between planning at the central state tire as well as regional and local levels.

One particular aspect of central government planning is its advising character and the legal power within the municipal division to contradict these advices. Between the county master plan and the local plans the interdependencies are more depending on conflicting interest than on overlapping of contents and procedures. While the county master plan addresses policies and political and administrative requirements for the activities within the County Municipality, all the statutory physical plans at local level are legally binding on the physical environment, whether development or protection. Attempts to characterize the interdependencies between the different planning levels end as follows.

County planning

County planning comprises regional development planning as well as planning for public activities and land use or physical structures, all of which incorporated in the county master plan. The physical part of it is in main a policy approach that can vary in content and the use of instruments. Since there is no strict hierarchy of regulatory power dividing the two municipal levels, one important purpose of this physical planning is to create a source for the elaboration of potential conflicts against local land use planning. In case of conflicts the county plan can be used as documentation for raising objections.

Local planning

Planning at the local tier comprises three statutory levels of plans and in addition the permitting level. The dominant regulation method in this regard is rigid zoning based on statutory categories of land use:

- The comprehensive municipal master plan is obligatory in municipal planning. Both the activity and the land use part of which are connected to municipal budgeting. Every forth

year the planning authority should undertake a review in order to decide whether updating of the existing plan is needed or not. A municipal master plan can be adopted for the whole municipal area, for a part of it or it can be made valid for a particular theme of priority, for instance within public activity sectors.

- The zoning plan is a pure physical plan for the development of land consists of two variants: a fully formulated one or a simplified one just limited to zoning provisions that determine use of land and density of development. The zoning plan is meant to be the obligatory instrument for permitting of major constructions. In reality, however, it can hardly be regarded as obligatory for permitting due to the flexible possibilities for formulating regulations connecting to other categories of plans and the legally binding character of these plans. There is no requirement for the territorial delineation of this plan category, except that in relation to scale, it should give valid information for permitting.

- The building development plan is a three dimensional and accordingly more detailed variant of the zoning plan. There is no legal requirement for using this type of plan. It is up to the planning authority to decide whether it is needed or not. Still, the right to initiate preparation of building development plans is free and the obligations for the planning authority to handle it are the same as for zoning plans.

- Building permitting is based on conformity to adopted legally binding plans. A building permit application in congruence with adopted detailed plans should in principle be endorsed for implementation. If a departure from the plan should be needed, requirements related to justifications and procedures are observed. Although the legal procedure is clear, certain aspects related to the binding character of the types of plans and the staging of the permitting procedure should be considered. Since all statutory local plans are legally binding, there are possibilities for obtaining building permits for all types of plans, depending on the formulation of the regulations. In practice it means that the constructions applied for and the character of the regulations more or less will decide the type of plan required. At least for larger constructions, permitting is divided into two stages. First a general endorsement is required. Judgments for the endorsement will be considering planning and other conditions in order to decide whether the existing overall requirements are met. Then, provided that the building and the construction work will meet all technical standards, the application for starting the construction work will be adopted.

4.2 Harmonisation of different planning areas within the same level

On the whole, the planning authorities at central government tier are in a particular position for the harmonisation of planning. Instrumental in this harmonisation is the use of national provisions and guidelines together with handbooks and guiding materials. Moreover, there are also legal opportunities for direct interference with county and municipal planning for including parts of two or more counties, and alternatively two or more municipalities, eventually parts of municipalities in the same planning area.

At the same levels county planning as well as municipal planning gives certain room for territorial harmonisation across planning area borders, without ministerial interference. The County Municipality can order county planning for the whole county area or for a part of it, as well as it can agree with neighbouring counties on preparing county plans across county borders. The same applies for the planning authority at local tier. Furthermore, if the political, eventually the regulatory power should fail or somehow turn out to be inconvenient for such coordination, state as well as municipal bodies can concur in planning matters through civil law arrangements, like agreements.

Another mechanism for the harmonisation of planning areas is the state requirement, whether the Ministry or the County Governor, for revision of overall plans for counties and municipalities. Still at local level, this harmonisation will to some extents meet counteracting forces through the opportunity to adopt subordinate plans without revision of superior plans before this adoption can take place.

Harmonisation between multi-sectoral and sectoral planning

For operative planning tasks there is a general legal requirement for administrative cooperation between public authorities. Because physical planning within several state sectors takes place according to the Planning and Building Act, the administrative conditions for harmonizing towards these sectors in county and local planning are therefore not that different from multi-sectoral planning or the physical planning that take place in pursuance to this Act in counties and municipalities. One important difference compared to municipal physical planning is that the state sectoral authorities are responsible for the implementation of projects. In local planning this only occur in those cases the Municipality is the holder of building projects.

The conditions for cooperation are quite different when it comes to policy levels or to sectors ruling over particular sectoral planning instruments. State sectors are generally under administrative rule and regionally the territorial division deviates more common than

not from the municipal county division. Furthermore, the procedures for allocating resources to these sectors for the realisation of plans are different from the municipal budgeting procedures. The harmonisation towards these sectors is therefore very much depending on disseminating of information through notifications, and meetings between representatives from entities concerned. And at the end, there is no in-built mechanism at regional level for the harmonization of the comprehensive (multi-sectoral) county planning with state sectoral planning, cf. Table 5 above, for instance towards state infrastructure sectors like road and rail planning. The same applies for attempts to harmonize state sectoral planning with local comprehensive planning.

Harmonisation between different sectoral planning

Sectors within the municipal division, whether the County Municipality or the Municipality, are in principle integrated in the comprehensive (multi-sectoral) county and local planning through comprehensive planning processes. As such these municipal sectors are under the coordination umbrella of counties and municipalities and can accordingly be coordinated through the municipal organization and the ordinary municipal political-administrative routines.

Cross-sectoral harmonisation between state sectors is formally relying on formal procedures for disseminating information and the arrangements for gathering response, and in this regard arrange collaboration between entities involved. Because the financing of state sector projects is under the supreme responsibility of the Parliament, there exist mechanisms for coordinating the financial implementation under the responsibility of the state sectors. Coordination of policies or resolution of more severe conflicts between sectors is as a rule matters for central government authorities. Due to the order of meetings in the Government final harmonisation can either be reached within the actual ministry, or brought further to the Government Conference if sectors under several ministries are involved. Efforts taken for more extensive coordination of state sectoral policies might end for discussions in the Parliament.

Considerations towards planning in other countries

The Norwegian planning system exhibits some particularities that gives it its own character, and at the same time distinguishes it from other planning systems, even those of the closest neighbouring countries. At least four of these should be mentioned.

One is legal requirement for what could be named as a holistic documentary approach in county and municipal planning. The county plan and the municipal master plan should in

clued planning of all the responsibilities of the County and the Municipality in one comprehensive document, whether comprehensive plans for the physical environment or plans for the activities within the sectors under county municipal or municipal rule respectively. In opposite to the other Nordic countries this county planning understood as regional planning is also obligatory.

Another particularity is extensive use of legally binding regulations for all categories of local land use plans, the planning system should apparently be labelled as a regulatory one. Even so, at least two principles contradict this regulatory categorization. One is the possibility to adopt legally binding subordinate plans in contradiction to a superior legally binding plan(s) without revising the latter before the former plan is adopted. Another is the free right for developers, landowners or anyone else to initiate detailed development plans, meaning building projects without any permission, and finally the obligation for the planning authority to handle these plans if they meet formal requirements. All of these characteristics contribute to a weakening of the certainty in the planning process and give the planning system a typical discretionary character.

Furthermore, all of the statutory plan categories together with their specific variants give possibilities for building permitting. To some extents, building permitting as a one stage development control is an exception that confirms the regulatory character of the planning system. However, the permitting system needs to be viewed towards the free right to initiate detailed development plans territorially limited to one building project and the two-step staging of permitting, in which the first one in main is a clarification towards the development plan for the same project, i.e. a kind of planning permission in U.K.-terms. It might therefore be discussed if a zoning plan proposal or a building development plan proposal limited to one building project and one property parcel should be labelled a plan or an application for a building permit.

Lastly, the content of planning at meso-levels seems to be far more open than expected both in terms of content and organisation. Except for the activity planning the county municipalities have extensive freedom to choose planning approaches provided there will be resources for including prioritizations into their plans. Additionally, mechanisms for the coordination towards state sectoral planning seem to reduce the very idea that the highest planning authority in terms of political councils should consist of directly elected politicians. Besides, the territorial divisions of municipal planning and the most important state planning sectors at these tiers are not congruent and will accordingly represent

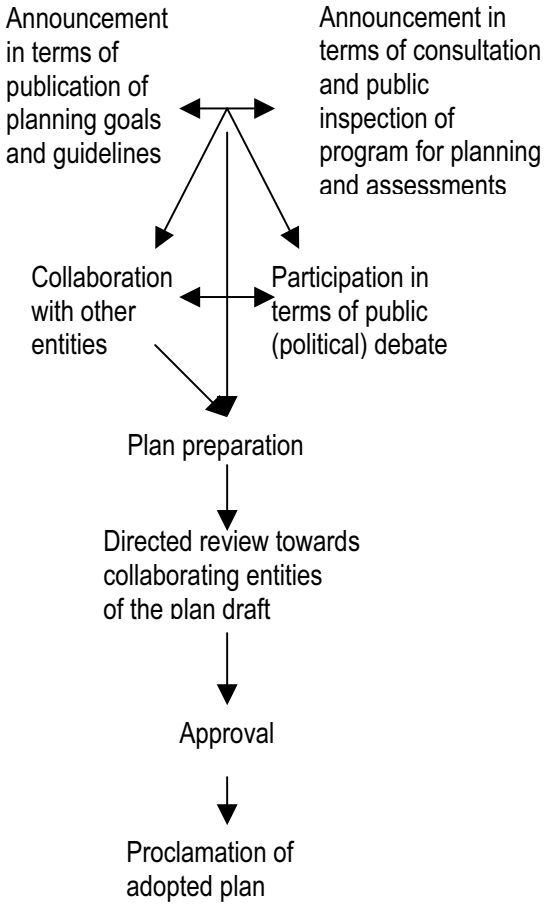
particular challenges for the attempts to harmonise regional planning within state and municipal divisions.

Planning will assume certain divisions of responsibilities related to implementation between public authorities on the one hand and private or public stake holders on the other. Through planning practices and to some extents civil law arrangements, the division of responsibilities, which formerly seemed to be fixed, is gradually changing. However, this is hardly a characteristic that only has relevance in Norwegian planning.

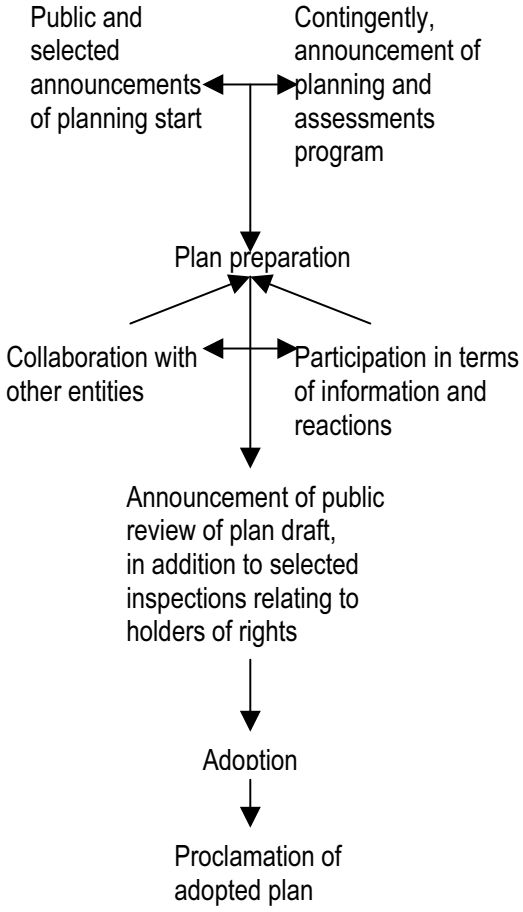
5. Planning practice

5.1 Planning processes

The processes of statutory plans, whether overall plans or the detailed ones, comprise some common procedural elements as announcements; the very plan preparation including required calculations and analysis; collaboration with other entities; participation; publication for referendum; and finally approval, cf. Figure 3 which illustrate elements of processes of county master planning and municipal zoning.



a:
County master plan process



b:
Zoning plan process

Figure 3 a,b: *Example of procedural elements of planning processes*

But the contents of these elements will somehow be depending on the planning level and the category of plans. In general, the elements will be more relevant for the describing of a local process for carrying out a physical plan like the land use part of a municipal master plan or a zoning plan, compared to public activity planning for preparing, especially the activity part of the county plan, and somehow, the short-term component of the municipal master plan. The procedures of the latter follow though in main the procedures of the land use part of this master plan. Therefore the two figures above reflect how these elements connect to county planning and detailed planning at local levels.

5.2 Elaboration of plans

All the statutory plans of the Planning and Building Act and their possible variants are used in planning practice. For specific environmental protection purposes, the environmental protection laws give some possibilities to use more specialized types of plans with legally binding effects. If the planning authorities should find it necessary or convenient, they can compose informal plans framed for actual situations. In reality, the planning authorities can chose between several categories or variants of plans for the most common planning purposes, i.e. for the development and uses of land. The possibility that the planning authority for some types of plans, like the zoning plan and the building development plan, can let landowners or developers make this choice, will probably extend the variety both of choices and types of plans in operation.

Municipalities that want to simplify their planning work, and perhaps their procedures in the development control, will therefore have the opportunity to prepare their overall land use plan in a way that, at least for some areas, is suitable for the considering of building permit applications. For instance, the possibility to prepare the land use part of the municipal master plan for specific parts of the municipal area is in this regard an opportunity for many municipalities to avoid more demanding planning tasks. They will anyhow have the opportunity to require zoning or building development planning when deemed necessary. Initiators of these plans will normally undertake the preparation, and then release the planning authority from this workload.

Towards the overall planning level there has always been a challenge for counties and municipalities to meet the requirements for having an updated master plan. Particular the

small and remote municipalities have traditionally had difficulties in revising and updating the land use parts of their master plans. To the extents the municipalities have been actively preparing detailed plans for the execution of their development control, the public planning and updating at this level have also faced problems in meeting the formal requirements.

In recent times, there have been gradual improvements of landowners' and developers' capacity to initiate and prepare detailed plans, which probably is an important factor behind the increase of zoning proposals for public handling. In consequence, it means that an increasing proportion of the development control cases are executed on the basis of detailed plans initiated and prepared by the applicants for a building permit. Moreover, it implies that the use of zoning for strategic purposes covering several property parcels has been diminishing. The zoning and the building development plans represent to increasing extents proposals for building projects, and belong as such to the early phase of the development control. It might indicate that in spite of a rather wide variety of public planning options for the execution of development control, the tendencies are moving towards one statutory public plan as the real legal basis for this control, namely the land use part of the municipal master plan, or alternatively a variant of this plan.

Regarding the use of regulation methods of the plans there are limited possibilities for the planning authorities to introduce substitutes for the statutory ones. These statutory methods are to some extents obligatory, for both overall and detailed plans. For both planning levels, the instrumental basis of these methods is rigid zoning, which gives little room for the municipalities to introduce local variants of zoning principles, as the requirements for specific land use purposes indicate.

5.3 Application of instruments

As for the use of statutory plans some kinds of changes can also be observed in the use of other planning instruments. In addition, there are formal instruments that rarely are used at all. For the latter, there is a tendency that superior planning authorities hesitate to use instruments that will enforce subordinate planning authorities without possibilities for a close dialog or at least a feeling of mutual cooperation with the County Municipality and the Municipality, and even developers or landowners. For instance in planning at the central tier, selective legally binding provisions are seldom used for directing the uses of land or developments, and likewise regarding the possibilities for the Ministry to require state planning of municipal master plans or zoning plans. For these kinds of instruments

there is scarcely any tendency to be observed. The only exception is the outgrowth in use of objections, which was introduced to Norwegian planning in 1985.

In planning at local level, collaboration towards developers and landowner has gradually been more important, probably as a consequence of the free right to initiate zoning and building development plans and the initiators capacity to prepare these plans.

Also for instruments not directly connected to the type of plans the main tendencies appear to occur at local level, in municipality planning. Instruments for the implementation of projects represent such examples, which perhaps connect changes in the Norwegian planning closer to tendencies in other comparable countries than changes in use of other instruments. Traditionally the expropriation instrument in Norwegian planning has been considered a safety measure for the public interests, as "public" according to law is contemporarily understood among the executive authorities. In general, possibilities for private responsibilities in compulsory acquisition of land, as indicated legally, are hardly ever used in planning practice. It means that expropriation is regarded as a tool for state or municipal authorities, either for getting access to land needed for actual building projects or for strategic purposes in order to direct urban development patterns as well as the supply of land for various urban uses. State sector authorities, but also municipalities, have been, and are still, the main users of this instrument in planning for actual projects. It applies particularly for roads, streets and other infrastructure projects. On the other hand, municipalities have been the sole users of expropriation for strategic purposes. However, compulsory purchase of land for directing urban development patterns or for societal reasons is almost not used any longer. A very limited number of the municipalities do apply compulsory purchase neither ordinary purchase of land for strategic purposes in their development policies.

Similar tendencies as for expropriation is indicated when it comes to instruments for refunding infrastructural costs. But this refunding instrument has supposedly never been widely used in Norwegian planning and the contemporary use of it seems to be declining. The municipalities seem to the extents possible or relevant to replace this instrument with development agreements. For some purposes agreements between the planning authority and landowners or developers seem moreover to substitute some functions connected to expropriation in as much as such agreements enhance the planning authority's control over the urban development pattern as well as they facilitate the implementation of building projects. The tendency for the use of implementation instruments seems to favor

negotiating tools and agreed solutions at the expense of regulatory and compulsory instruments.

5.4 Interdependencies

In the planning system there are few interdependencies between sectors and planning authorities that can be considered obligatory or legally binding. The planning authorities, whether stat sectors or within the municipal division, are empowered to initiate planning and to revise plans when deemed necessary without consent from other authorities. But when first initiated the formal requirements for the planning processes have to be observed. The same applies for planning categories that can be freely initiated. The local planning authorities are obliged to handle these plans according to rules and regulations, although the planning proposals contradict existing plans. In all physical planning the planning authorities will have the opportunity to approve subordinate plans without revising the existing superior plans. Provided that any other authority does not interfere, it will be up to the planning authority in question to decide approval or not. It implies that there is any strict requirement for horizontal neither vertical conformance throughout areas of plans in horizontal continuity nor hierarchically, respectively.

Regarding realization of plans there is no requirement for financial interdependencies between state and municipal divisions. The budgeting processes within state sectors and within counties and municipalities follow separate formal procedures. Regarding municipalities as responsible economic entities, the connection between plans and measures for their realization is somewhat different. The state control through the County Governor is primarily focusing on the balance of revenues and spending in municipal budgets. As such there is no formal requirement for interdependencies between plans and financial measures. Nevertheless, the level of local activities indicated through planning will be impacting the municipal economy. To some extents, it might therefore be said that state control of the finance within the municipal division is a kind of search for interdependencies between planning and the engendered needs for financial measures. The concern for financial coordination is obviously most relevant for activities directly impacting local finance, like in municipal activity planning and planning of infrastructure and community facilities.

5.5 Political influence vs. administrative role/ tasks

Since planning decisions in principle are based on democratic principles any approval of plans, not necessarily associated budgets for their realization, are made by political bodies. Then again, there are certain differences between state and municipal planning

divisions, as the formal political body in planning matters is within the central state, while the municipal political body in charge follows the organization of county municipalities and municipalities. The institutional “distance” between the decision-making entities and the executive administration is substantially longer in state sector planning than within the county and municipal planning. It applies in particular for the state sector regions, which are under the immediate rule of appointed boards without formal direct connections to the political system.

At local tier the influence and tasks of the politicians and the administration are somewhat depending on local articles of association and the character of the matters concerned. In general a legally binding plan or regulation should be implemented by the administration. It means that if an application for a building permit conforms to such regulations the decision should in principle be under the administrative realm. If not, e.g. if a permit requires dispensation, the politicians will normally be involved in the permitting. The same might be the case if neighbors, other holders of equal rights or authorities are complaining against a building application, although it conforms to a legally binding plan. That might happen in extraordinary cases when certain environmental concerns are endangered.

The division of responsibilities between politicians and administration is not that clear in matters based on negotiations and agreements outside the rule of regulatory power. Municipal articles of association and statutes will more or less decide the demarcation between political and administrative responsibilities. It applies also for development agreements in municipal planning. Normally such agreements will require signature of at least one official, as the executive negotiator on behalf of the municipality, and in addition the signature of one politician, as the municipal responsible.

5.6 Planning and implementation problems

There is no requirement for an “implementation plan” in the planning system. In physical planning the basic implementation instrument is the regulatory power used in requirements for specific types of plans, regulatory tools and for development control measures included in the permitting process. The use of guidelines connected to legally binding planning provisions is included in this regulative box of tools as well as the initiation of informal planning instruments as non-statutory plans, architectural contests, and the use of design manuals. But the use of regulatory power for providing the planning process with adequate tools for implementation will also have to observe coordination to implementation measures beyond the regulatory regime, in main public financing of

developments and municipal landownership, or if possible other kinds of public land ownership.

Detailed plans for public projects to be implemented under state, county or municipal financial responsibility are normally connected to financial programs or budget items for the implementation of these projects. In county and municipal planning budgeting for the implementation of such plans, whether infrastructure, community facilities or public offices, is a part of the municipal short-term activity planning. The coordination between planning and budgeting is somewhat more demanding when it comes to state sector projects, particularly in situations when financial cooperation between state sector entities and county or municipal entities is needed.

Concerning property, municipal landownership has traditionally had strong impacts on the urban development pattern, and in this regard on the realization of development polices in terms of land use plans as the land use part of the municipal master plan. On detailed levels, development for pure municipal building purposes has in main been dependent on municipal ownership to land. Furthermore, municipal landownership has also been used for subsidizing specific kinds of developments, such as social or affordable housing projects. In practice, attempts to coordinate the use of state or county property with municipal planning, whether overall or detailed, has in general met severe challenges.

These challenges are particularly rooted in both the owners' right to decide on the actual use of the property and on the price of the property for eventual different uses. Through the latest years the policy for public acquisition of property has been changing as well as the attitude to the price of land in public ownership. The interests among politicians and planning authorities to acquire land for strategic purposes is diminishing, in opposite public land is transferred to new and privately organized constructions or sold to private developments, and when selling, the price will usually be the market price without regard to what purpose the land should be used for. All these changes have created new conditions for the realization of overall plans as well as for the implementation of projects.

The changes towards a more detached role of the municipal authorities in plans' initiation, preparation and implementation are somehow impacting the covering of urban development costs for infrastructure and community facilities. The increase in private sectors' initiatives together with financial stress in the municipal economy will stimulate search for new planning instruments in order to cover the urban development costs. Different kinds of agreements and contractual arrangements are in the latest times

increasingly used to capture private contributions for covering costs for the development of infrastructure and community facilities. Although there are statutory regulatory mechanisms for internalizing at least some of these costs into the building projects, the planning authorities (more conditionally the developers) seem to prefer negotiated, alternatively market solutions.

The use of negotiated solutions and of agreements in general is widely debated and to some extents disputed. Three aspects related to the use of agreements for financial purposes have been discussed. Until recently, before the enactment in the Planning and Building Act, there was a concern about the legality in using development agreements, particularly connected to the use of the regulatory power for requiring contributions that exceeds statutory obligations pursuant to the Planning and Building Act. Another aspect discussed was the impact of private contributions on the building costs, and eventually the property price, especially regarding housing. And lastly, the increasing use of negotiations is in main involving two parties, the planning authority and the developers or landowners. It means that the public access to information decisive for the formulation of plans is getting more constricted through these negotiated planning processes compared to ordinary regulative processes, in which the public will have open access to the planning authority's information relevant for the plan preparation.

5.7 Transnational/ trans-border planning and cooperation

Formal requirements for trans-border planning and cooperation are initiated when necessary due to impacts and the use of environmental impact assessments, mentioned above. But there are also some kinds of voluntary trans-border planning cooperation. Some county municipalities have organized regional bodies for the cooperation towards similar bodies across borders to Sweden, Finland or Russia. In recent years cross-border EU-projects, are initiated in cooperation with all these countries, partly as a continuing activity based on previous trans-border cooperation between regional bodies. Some of these EU-projects are more or less clearly directed towards specific planning purposes, others are emphasizing regional development aspects while others are aiming at joint management policies for the natural environment.

5.8 Guideline(s) for investments and implementation

Legally, the Planning and Building Act strikes a rather well demarcated border between public and private responsibilities in the investments of infrastructure and community facilities for the implementation of projects. The projects' responsibilities for providing

necessary services are formally delimited to what is required according to the legally binding plan for the implementation of the projects. What the projects should engender of needs for capacities in existing infrastructure should not be included in this consideration, provided that such capacities exist. When it comes to community facilities there is no legal requirement for including such investments in project plans for the purpose of exacting private contributions, without any regard to situation and scale of projects.

However, there is no clear legal requirement, whether in this Act or other laws and regulations within these fields, for the public responsibilities in financing, neither infrastructure nor community facilities, particularly when it comes to the responsibilities of the State agencies. The state authority's role in this regard should in main be understood as a combination of controlling and enabling.

The situation in the municipal planning division is somewhat different because of the latest legislation on development agreements under the rule of regulatory power. It states that the Municipality neither can require contributions to infrastructure that are not necessary for the implementation of the project nor to community facilities the Municipality is obliged to pay for. The consequence is that the Municipality is not allowed to use her regulatory power to exact contributions to community facilities or amenities under municipal financial responsibility. In such situations the Municipality can consider other possibilities for covering the urban development costs, usually together with the public entity in question. A part of this consideration will be the search for other instruments or mechanisms beyond the legal basis of the Planning and Building Act that fully or partially will secure the needed investments. Beyond the realm of the regulatory power the Municipality can for instance as owner of land commit developers to cover construction costs that exceeds the limit of necessary infrastructure for the project as well as construction of facilities. Another possibility is to crate public-private-partnerships that will secure the construction of the needed facilities and in that way meet municipal demands. The latter possibility will usually mean that the facilities in question will be privately owned, at least for a certain (agreed) period of time.

The tendency of increasing private contributions to the provision of infrastructure and to some extents community facilities is more or less an outcome of the planning authorities' search for alternative financial sources in their struggle for enabling the implementation of development projects to acceptable standards. The previous use of the Contract Law as a legal basis for development agreements is an evident example of applying general legal

instruments in order to strengthen the capacity to meet planning needs under financial stress.

At the end there is a reminder that public approval of a detailed plan for a project does not mean that the zoning or building development plan will be implemented. In principle, a project plan will only be implemented to the degree the owner of the project is able to implement it. If the holder of the project is not able to carry it out, and perhaps will have to abandon it, the planning authority cannot enforce the holder of the project to implementation. For the overall plans the principle of requirements for realization is somewhat different. The planning authority is obliged to follow the overall plan to the extents it finds it necessary with consideration to subsequent planning proposals, whether overall plans or detailed plans for upcoming project. But as for the detailed plans for projects, the realization of overall plans regarding development is dependent on the implementation of development projects. If there from some or another reason should be no interests for building of all the constructions the planning authorities are willing to approve, the proposed levels of development in the plan will not come to realization. In such cases the planning authority is normally lacking instruments to motivate external forces for initiating projects that will contribute to the realization of the plan.

5.9 Main documents and links (for download) etc.

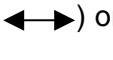
The planning system includes several categories of statutory plans. At the same time the planning authorities have fairly wide opportunities to frame the regulatory content of these plans in different ways. In consequence the same type of plan, depending on the situation and purpose can cover areas of varying scale over which the regulatory content can be quite different. This is particularly true for zoning plans, which can be prepared both for strategic purposes and for the implementation of building projects. Nevertheless, the possibility to carry out partial overall plans as the partial county master plan and the partial land use part of the municipal master plan opens up for a variety of uses also for these types of plans. The examples in the fact sheets illustrate to some extents this phenomenon.

III. Planning terms Norway

1. The structuring elements in the search for planning terms

The selection of planning terms is based on the legal framework constituting spatial planning within state and municipal divisions. It implies in main that the technical vocabulary used for analysing open and built-up areas as well as for constructing the built environment is excluded. Neither the vocabulary related to the building control is included.

However, the development control should still be considered as a decisive part of the planning system. Therefore the vocabulary will have to consider institutional conditions for the development control. It means that the terms will explain the principles on which the different kinds of building permissions are issued, but not the system for controlling the construction quality of building activities. In consequence the terminology is confined to the apparatus for planning and development control performances within state and municipal divisions.

Relevant planning terms are searched for in the different kinds of relationships or structures between the various planning authorities included in the planning system.
The linguistic characterization of these relationships can either be hierarchical (), partitive (), associative () or multidimensional () depending on the legal structure that regulates the responsibilities and duties of the different entities as well as the interactions between them. Although their formal status in these regards are different their planning related activities are functionally interlinked through similar institutional structures, namely *mandates* (·····), formal *procedures* (·····) and planning *instruments* (— · · —). These structures are in main defining the status according to the public law system. Since the civil society constitutionally is empowered with rights to defend the interest of individuals against encroachments engendered by private as well as public activities, *civil rights* (– – –) need to be considered as a separate factor that might affect the planning vocabulary. The impact of the civil right system on the planning vocabulary is probably most easily revealed when it comes to participation and property formation, i.e. when civil rights create conditions for planning decisions. The figure below gives an outline of how the different kinds of relationships and the functional interlinkages are used in the search for relevant planning terms.

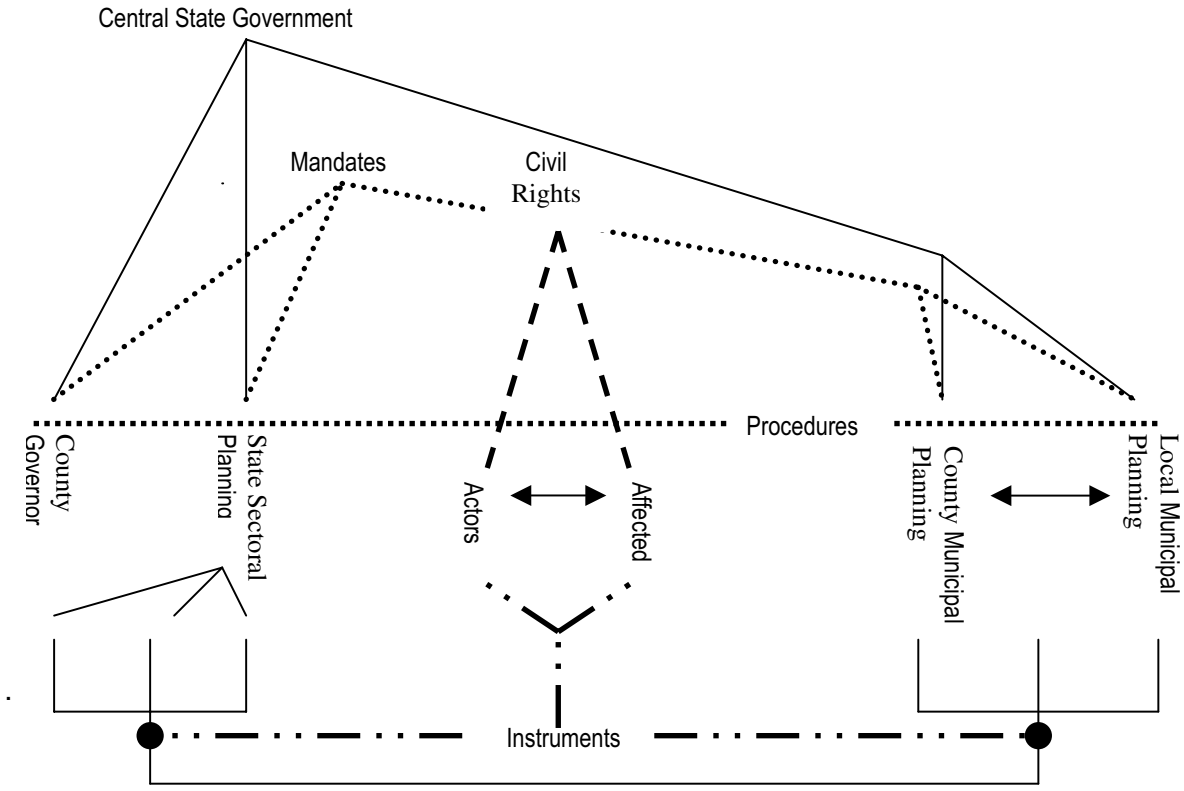


Figure 4: *Linguistic and functional relationships for searching relevant Norwegian planning terms*