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“Promoting Spatial Development by Creating COMMon MINDscapes”



The Republic of POLAND

English language version

II Spatial Planning System

1. Spatial Planning system in general

1.1. History of the spatial planning system

The attempts to normalize processes of spatial planning have a long tradition in Poland. They have been made directly after Poland regained its independence in 1918. Those attempts resulted in a modern, as for those times, regulation, i.e. an order of the President of the Republic of Poland issued on the 16th of February 1928 on Building Code and Housing Estate Development. In practice spatial planning in the interwar Poland (so called II Republic) was very successful, both locally (e.g. social housing estates, building of a harbour town of Gdynia from scratch, public facilities), regionally (e.g. plan on “functional Warsaw”) and nationally (e.g. Central Industrial District). Polish architects and town planners were actively involved in the works of CIAM, which led to formulation of the Charter of Athens.

After World War II, the regulation from 1928 was replaced by a Decree on the Planned Spatial Management of the Country. That decree and the following ones on the National Investment Plan from 1946 as well as the one on the Planned National Economy from 1947 established general rules of the so-called “system of a socialistic planned economy” introduced in Poland after World War II. Types of plans, the range of their content in the most general form, hierarchy and a mutual relation of plans, as well as procedural forms of their making and organization of planning were defined. A very significant fact for the contemporarily established system of the Polish People’s Republic (PRL) was taking over basic means of production by the state, and in consequence – accepting centrally controlled economic development.

In the conceptual phase the system of planned economy was notably supported by some groups of architects and town planners. Already before World War II those groups claimed that frameworks of activities ensuring rational development of the country, its regions and individual settlement units can be created only through planned economy.

In practice it soon turned out that legal norms were too rigid to regulate, with advance planning, turbulently and often forcefully introduced the so-called “socialistic industrialization”. It was based on the guidelines from the Soviet Union. The decrees became uncomfortable tools in the execution of tasks issued by the governing communist party. Therefore they were rescinded or disobeyed. In this way a directive system of management was becoming consolidated. And that had little to do with the declared planning.

In that situation economic planning was short-term. It was based on a five-year plan, but in fact a yearly plan based on the state budget passed by the Sejm (Polish Parliament) was causative. Social planning turned out to be an illusion. However, spatial planning was being developed separately from the economic condition of the country. It was also susceptible to non-planning pressure and directives of different governing civil and political bodies.

During almost a fifty-year long period of forming the system of spatial planning in the PRL a method of preparing planning documents was created. It was obviously adjusted to the present situation. At that time a considerable group of planners received their education, which resulted in a series of valuable planning studies registering the condition of country development and analysing its risks and developmental possibilities. In the 60s certain methods and planning concepts were

even carefully examined in many countries and considered progressive. However, the system weakness of spatial planning was lack of balance between the objective and subjective layer of a plan. Spatial management plan did not require wide social acceptance. It was enough that it was accepted by an executive and political authority. Most often plans were seen by the society as an additional instrument of repression, especially by those social groups who as a result of the planning decisions were dispossessed of their land estates. Plans were also perceived as a special form of communistic propaganda showing a glowing vision of the future of the system, the so-called "social justice".

Despite the political assumption of taking over all the production means by the state, and significant limitation of citizens' imperious rights, quite a high percentage of agricultural (about 70%) and building land remained in private hands in the PRL. People could also own an apartment; run a non-agricultural business activity, even though with big limitations.

Generally spatially extensive development of cities/towns, especially in the nationalized sector, required taking over vast terrain from private holders. Local spatial management plans formed a legal basis for dispossessions. In that aspect of theirs, plans were mainly used as an instrument of limiting private sector of economy. Owners of whatever real estate defended it with all legal and non-legal methods. Also various methods of private investment, out of planning assumptions and logics of spatial planning, were practised.

Abolishing ground rent, limiting functioning of real estate market and removal of private ownership during the PRL era caused deformation of spatial management structure, devastation of visual landscape and formation of characteristic "urban fallows", i.e. un-built areas in attractive places. However, simultaneously the PRL has left millions of built flats, by principle modern housing estates and public facilities (schools, hospitals, offices, etc.)

Political transformations, which took place in Poland after 1989, enforced the revision of the so far system of spatial planning. After numerous discussions and presentations of the project of a new act of law correcting that system, the Sejm passed The Act on Spatial Management in 1994, which replaced The Act on Spatial Planning from 1984. The change in the name of the act of law was not without any significance. It meant separating from the principle of the previous system, i.e. "planned economy".

A very important legal document, prior to the Act on Spatial Management, was the Act on Territorial Self-Government from 1990. Due to that act of law, self-governmental communities, which acquired legal entity and were endowed with a wide spectrum of tasks, got reactivated. The scope of their tasks covers all the public affairs of a local importance, which have not been legally reserved to other subjects. The first step to create self-governments in the Republic of Poland was recreating a communal self-government in 1990. Voivodship and district self-governments were established later, by operation of law from 1998, and organised on account of an administrative reform of the country, which was introduced in 1999.

The Act on Spatial Management from 1994 abolished a centralized and hierarchical system of spatial planning and vested communes with powers decisive, to a large extent, for the development of the whole country. The principle of compulsory and universal nature of making local spatial management plans has been abandoned.

While the previous act of law emphasizes that the “aim of spatial planning is to shape spatial management of the country, regions, cities/towns and villages in a complex way...”, the act of law from 1994 abandons defining spatial planning, but highlights that the enacted act defines „ the scope and way of procedure in cases concerning the intended use of terrain for specific purposes and settling the ways of development ...”. The above mentioned legal provisions present a basic system change residing in abandoning creative and complex planning supported by legal acts and aiming at regulative planning, which would consider title to property, among other things.

1.2. Basic principles

According to the presently binding Act on Spatial Planning and Management issued on 27th of March 2003 the system of spatial planning at all the governmental and self-governmental management levels in Poland, shall be managed at all the levels adequately to the territorial division of the country. This policy is reflected in planning concepts and studies passed by appropriate social representations, i.e. the Sejm (the lower chamber of the Polish parliament), regional parliaments and communal councils. The enacted policy becomes an act of internal management, which means that its decisions are binding for the administrative bodies, which participated in the passing process. They do not apply to the third parties. They also

do not cause any legal status (regulatory environment) in terms of management. They are more a set of demands, guidelines and information rather than a commonly binding regulation.

Local spatial management plans introducing investment discipline as acts of local law, are the basic instrument of spatial planning policy in Poland. By virtue of law, it is an exclusive property of the commune council to pass local plans of spatial management. A local spatial management plan has been unambiguously classified as a communal regulation, which means that its regulations are binding on the territory of a commune and form a fundamental instrument to implement planning decisions. Within the area of spatial management other regulations cannot be issued. In the process, all the regulations concerning the aesthetics of development, architectural classical building order or landscape management can be executed only by means of provisions of Building Law or other national acts of law.

At the national level, the Council of Ministers (i.e. public administration) is held responsible for spatial planning, while at other levels – self-governmental authorities – adequately voivodship board and voivodship parliament at the regional level, and commune board and commune council at the local level. The hierarchy of spatial management plans in a sense of formal submission of lower levels to higher levels (as it used to be in the PRL), does not exist in the Republic of Poland. There are only the local spatial management plans that have a binding force between the state and its citizens. The national spatial management concept solely provides general guidelines and voivodships' spatial management plans are also not binding for communes. Certainly, there is a statutory obligation to agree on the content of plans, but in practice the superiority of higher levels does not exist. It leads to numerous conflicts and makes investing in Poland difficult.

The advisory body of the Minister proper for building, spatial management and housing within the area of spatial planning and management is Main Committee for Town Planning and Architecture. In voivodships, counties, municipal and rural communes analogical committees for town planning and architecture can be called up (at the level of a voivodship, county, and town/commune).

1.3. Objectives and scope

The Act on Spatial Planning and Management from 2003 does not explicitly formulate the objectives of spatial planning and management. It only states that:

- creating and running spatial policy by bodies of self-government public administration,
- course of action in cases of earmarking terrain for defined purposes,
- ways of establishing rules of terrain development and building-up should be a subject to written and legally binding rules.

Spatial planning covers especially:

- requirements of spatial order, including those of urban science and architecture
- architectural and landscape qualities
- environmental requirements , including water management and protection of cultivable soils and forests
- requirements of preservation of cultural heritage and modern cultural achievements
- requirements of health care, safety of people and property, and also needs of the disabled
- economic qualities of space
- ownership title
- security and defence needs of the state
- public purpose needs.

The scope of spatial management in Poland covers all spatial scales (from a national to a local one) and follows the three levels of territorial division of the country (state, voivodships and communes). It also comprises all kinds of activities involving management/development and building-up of an area. Spatial planning covers also maritime areas of the Republic of Poland.

Any action within spatial management should aspire to introduce spatial order and ensure sustainable development.

The spatial order is understood as a target state of spatial management, where the conflicts resulting from developmental processes are minimized and where the

harmoniously composed landscape is achieved by preserving its local cultural and environmental identity.

Sustainable development is understood as a social-economic development, where aspiration for the highest possible standard of living of the citizens allows for minimizing the impact on the environment. It make sit possible both for the present and future generations to have their developmental needs met.

1.4. Functions

In Poland there is an integrated system of spatial planning laws based on general planning laws and specialized planning laws. Laws of general planning:

- at the communal level: a study of the conditions and directions of the spatial management and local spatial management plans,
- at the regional level: a voivodship spatial management plan,
- at the national level: a national spatial management concept.

Laws of specialized spatial planning:

- at the local and supra-local level: concepts and programmes referring to the areas holding a special status (e.g. management plan in the area around an industrial plant; a plan of conservation of a national park, landscape park or nature reserve; a plan of setting up a forest; eco-physiographic study, etc),
- at the regional level: concepts and programmes referring to the areas and problems of spatial management in a voivodship (e.g. studies and concepts of spatial development of metropolitan area),
- at the national level: programmes comprising governmental tasks serving the public purpose through the execution of an investment of national significance (e.g. concepts and plans of infrastructure development – roads, railway, pipelines).

Such a net of planning acts is overlapped with various planning acts of non-institutionalized analyses and studies, which either precede general and specialized planning at all levels of planning, or constitute independent planning acts of informative character. Such acts are, for example, studies and analyses made at the county (district) level as well as evaluations of changes of spatial development in a

commune. In some voivodships spatial management/development is monitored and reports are made on its status.

The foundation for building a system of acts of spatial planning in Poland is a local plan of spatial management/development. Its significance derives from the fact that it commonly binds. Decisions permitting building-up are issued based on that plan. That means that other planning acts, even though they do influence the content of the local plan, in order to be binding they have to be transposed into it.

It can be assumed that spatial planning at the national level has mainly an analytical and informative function, and very little that of a coordinating one. However, at the regional level the importance of the coordinating functions increases, as for the informative functions. Analytical documentation gathered in the process of working on the plans of spatial management (development) is the main source of information about a region. On the local scale the study of conditions and directions of the spatial management fulfils numerous functions: analytical, coordinating, informative and partly decision-making (e.g. through indicating areas excluded from up-building, assigning reserves of terrain for important investments). Local spatial management plans have solely a decision-making function. Their usually small spatial range excludes other functions.

1.5 Main elements

At present the structure and form of spatial management plans, as well as the methods of their developing are not unified in Poland. There is a big diversification and it is difficult to point at typical examples. It is a reaction of regional planners and town planners to a unified, detailed and restricting instructions used in PRL. The Association of Polish Town Planners and Town Planners' Chambers try to introduce some standards in that area throughout organizing conferences and trainings. Nevertheless, it is extremely difficult due to the lack of legal regulations.

All the plans of spatial management consist of a textual, tabular and graphic part. All parts are equally important and valuable. The most important and binding is a plan blueprint. Cartographic studies for local plans are made in the scales, which extort big formats. It makes it difficult to have them published and made available.

In recent years digital plans have become common. Some regions, towns and communes make the existing voivodship spatial management plans available (fully or

partly) on their Internet websites. The same refers to studies of the conditions and directions of the spatial management of a commune.

The only legally binding local plans of spatial management are made in a paper form in a small number of copies. From a formal point of view they constitute annexes to proper resolutions of the commune council. Projects of plans are made available to the public in the process of drawing them up. After passing extracts and excerpts are made available to the authorized interested parties. However, in practice, a public access to the binding (current) planning documents is difficult. It seriously limits social control over the execution of plans. There is no legal obligation to publish spatial plans. Some communes make them available using the websites.

1.6 Main instruments of implementation

The arrangements of spatial plans are implemented either through issuing a building license (or a refusal) or a change of the present form of land use. Such permission may be issued also if there is no local spatial plan. Then, it is based on the decision about conditions of up-building. The other planning documents are rather of a coordinating, informative and even marketing character.

In such a situation the procedure of agreement is a basic instrument for implementation of stipulations of spatial planning acts. It is very complex and bureaucratic. It prolongs the time of drawing up planning documents even up to several years and significantly increases the costs. It also extends the waiting time for the building license causing numerous conflicts and dissatisfaction of investors.

1.7 Significance of transnational and trans-border aspects

The need to consider international determinants in spatial planning appeared already in the 90's. It resulted from economic and political opening of Poland to the West as well as from the need to consider that fact in a long-term strategic planning of the country. During works on the concept of spatial management policy of the country, the international context has been already taken into consideration. It was reflected in the notion of 'jointer-like' location of Poland. Poland was one of the initiators and actively participates in the programme of planning cooperation VASAB (Visions and Strategies around the Baltic Sea). The cooperation was also taken up by regional

planners from Poland and Germany who worked out a common concept of trans-border cooperation. Most trans-border voivodships, towns and rural communes exchanges planning information, mainly informally, with the neighbours from the other side of the border. A significant role is played by Euroregions, especially those located alongside the western and southern border of Poland.

The trans-border cooperation within formal spatial planning is, however, restricted by legally established limitation of planning control in the area that comes within its jurisdiction. Despite their self-governmental competences, voivodships have no competence within international relations.

1.8 Current and upcoming changes and challenges

The discussion on introducing changes to the Polish spatial planning legislation has been ongoing several years. As a result a new project of The Act on Spatial Planning has been agreed upon. Compared with the currently binding act from 2003 it provides for changes as follows:

- strengthening of a role of spatial planning as an instrument of spatial policy,
- more precise delimitation of competences and responsibilities at the specific levels of spatial planning,
- separating analytical and constituting parts in the plans of spatial management,
- limiting the range of planning for the areas of low complexity of structures and spatial processes,
- endowing investments of public purpose with greater importance,
- including maritime and railway areas in the spatial planning at the local level,
- establishing a principle of considering spatial policy of the neighbouring areas (including those located outside the country's border) in the process of drawing up spatial plans,
- simplification and improvement of location procedures at the local level.

2. Legal framework of spatial planning

In 2003 the presently binding Act on Spatial Planning and Management was passed. Despite the changes, the general principle stating that communes develop spatial policy was kept. The citizens became subjects of spatial planning and could take a more active stand in its creation. Internal sea waters, territorial sea and an exclusive economic zone were included in the scope of planning and spatial management. Simultaneously, some of the planning procedures were simplified, especially those which limit the possibilities of unjustified postponement of investment. Those changes also increased the precision and clarity of plans, so that they could provide a basis for issuing a planning permission. At present the works on another amendment to the bill on spatial planning are in progress. The suggested changes tend to further simplify planning procedures, but also (unfortunately) to limit the role of social participation.

Besides The Act on Spatial Planning and Management from 2003 there are many acts of law of national significance, which are or can be used as an additional tool in the execution of that policy. The most important ones are:

- The Act on Environmental Protection and Management,
- The Act on Wildlife Conservation,
- The Act on Highways (public roads),
- The Act on Paid Motorways,
- The Act on Building Law,
- The Act on Geological and Mining Law,
- The Act on Real Estate Management,
- The Act on Consolidation and Exchange of Agricultural Plots,
- Energy Law,
- Forest Law,
- The Act on Protection of Cultivable Land and Conservation of Forest Soils,
- The Act on Maritime Areas and Maritime Administration of the Republic of Poland,
- Law on Use and Conservation of Inland Waters,
- The Act on Sanitary Inspection,
- The Act on Preservation of Cultural Goods.

In all of those acts there are many references to The Act on Spatial Planning and Management as well as self-contained norms, which influence spatial management. The latter refer particularly to the possibilities of constituting different forms of protection from the position of public administration, i.e. services of:

- Nature Conservation Officer,
- Conservation Officer,
- Minister and voivode proper for protection of cultivable land, water management, flood control, territorial waters, health resorts, state protection, etc.

Spatial policy at the national, regional and local level is increasingly based on development strategies. Strategies cover mainly economic and social determinants. That view makes many towns and regions decide to have a development strategy drawn up, even though such studies are not legally required. However, it does have to do with the procedures connected with utilizing funds of European Union. Since the 90's cities/towns and communes and since 1999 also regions develop and enact strategic documents including some guidelines for the spatial plans. Similar documents, but of a less obligatory nature, are made for counties.

At the national level spatial policy of the State is supplemented by planning works conducted by some departments, among other things in the domain of transportation, water management, power industry, forestry or wildlife conservation. The stronghold of the departments' activity is a systematic observation of the development state of affairs, especially in case of monitoring the environmental pollution, condition of the transportation system and others.

Thanks to public/governmental undertakings at the central and voivodship level, national and landscape parks, nature reserves and protected landscape areas are appointed. Furthermore, registers of historic buildings are created. They often cover valuable architectural-urban complexes. For some areas preservation plans and plans of protection appliances are made.

The Polish system of spatial planning, due to its statutory authority in many of the so called detailed acts, reveals numerous legal loopholes, which cause that the planning regulations are not able to control all the disadvantageous occurrences arising from a spontaneous development. The most important of them are: lack of spatial norms for agricultural/farming buildings and farming processing industry,

almost unlimited freedom in dividing cultivable land into plots, weak and missing executive resolutions concerning the environmental protection and others.

Moreover, quite a substantial autonomy of communes as far as spatial management is concerned, leads to the avoidance of introducing planning decisions by the commune boards. It happens in order not to restrict the private sector and thus to have the inefficient planning structures rebuilt. In that area of regulations the balanced direction of development becomes very difficult to carry out. The short-sightedness of the operations run by communal bodies and individuals often causes wasteful exploitation of natural resources and consequently speeds up the pace of nature degradation without the necessary awareness that imperfect and uneconomical forms of management may cause huge exploitation costs in the future.

3. Planning levels and specific aspects

3.1. Spatial planning at local level

3.1.1 The study of the conditions and directions of the spatial management of a commune

Objectives and scope

Spatial planning at the communal level is based on obligating the commune council to conduct the spatial planning policy. The communal spatial planning policy is to be defined by a study of the conditions and directions of the spatial management of a commune (the study). The study, which stems from the proper act of law, is a planning one, but its legal qualification has not been specified yet. It is also not regulated what statutory consequences are given rise to if a commune does not enact the study at all, or it does not reveal publicly a spatial policy of a commune in the process.

Planning power of a commune extends to its territory. A commune cannot decide about the purpose and rules of managing/developing the terrain located outside its administrative border. It refers both to spatial planning of communes situated on two different sides of national borders and planning surpassing the borders of communes in internal relations. In the first case, if a commune took up controlling planning activities in relation to a neighbouring commune, it would violate sovereignty of a given

state. Similar actions taken up in relation to a neighbouring commune inside the same country would violate the planning power of that commune.

Cooperating communes cannot pass any common local spatial management plan. Passing such a resolution at the common meeting of commune councils would be ineffective. It would result in adjudication of invalidity of the passed resolution and its elimination from legal relations.

Functions

The study of the conditions and directions of the spatial management of a commune has many functions. It is an act of spatial policy of a commune and this is where its first function stems from. It is also an act of economic development policy, especially where the strategy of a commune's development has not been drawn up. This double role of the study is a characteristic feature of the Polish planning system. The other important function of the study is coordination of arrangements of local spatial management plans. Another function is promotion of a commune among potential investors.

Main elements

The study consists of a textual and graphic part (study blueprint). It should include rules defined in the concept of spatial development/management of the country, arrangements of the strategy of development and a plan of spatial management of a voivodship as well as the strategy of a commune's development, if such exists.

The study specifically defines:

- directions of changes in the spatial structure of a commune and in the land use,
- directions and indicators relating to management and land use, including areas excluded from up-building,
- areas and rules of preservation of the environment and its natural resources, cultural landscape and health-resorts (spas),
- areas and rules of conservation of cultural heritage, monuments and goods of contemporary culture,
- directions of development of communication systems and technical infrastructure,

- areas, where investments of public purpose of local significance will be situated,
- areas, where investments of public purpose of supra-local significance will be situated, according to the arrangements of the voivodship spatial management plan and programmes of execution of public purpose of national significance,
- areas, where drawing up a local spatial management plan is obligatory based on separate regulations, including areas requiring consolidation and exchange of real estate properties (merging and division),
- areas where retailing objects of the sales surface exceeding 2000 m² and areas of public space may be located,
- areas for which a commune intends to draw up a local spatial management plan, including areas requiring change in the usage of cultivable land and forest soils for non-agricultural and non-forest purposes,
- directions and rules of shaping agricultural and forestry production space,
- areas exposed to the danger of flooding and land-sliding,
- objects or areas for which a safety pillar is marked in the deposit of a mineral,
- areas of monuments of extermination (mass murder) and their protective zones as well as limitations of running there business activity, according to the Act on Preservation of former Nazi Extermination Camps,
- areas requiring changes/transformations, rehabilitation or re-cultivation,
- borders of closed areas and their protective zones,
- other problematic areas, depending on conditions and needs of development in the given commune.

Procedure

A commune starts the procedure of drawing up the study of the conditions and directions of the spatial management after the resolution on entering such a project is passed by the commune council. The local planning body, i.e. a body responsible for making the project of the study and executing its proceedings is the head of a rural commune or a mayor (city president). He/she commissions making the study to external subjects with urban/architectural competences after the public order has been

carried out. When the commune council passes the resolution on entering the process of making the study, the head of a rural commune or a mayor (city president) informs about that fact in the local press, through an announcement and in a customary way accepted in the given town/location. The announcement contains information about passing the resolution to enter the process of making the study, defines a form, place and deadline for submitting motions concerning the study, not shorter than 21 days counting from the day of announcement. The institutions, which have to be consulted while making the study and those that give an opinion on the project of the study also have to be informed by the head of a rural commune or a mayor (city president) about entering the process. It has to be done in a written form.

After the motions concerning the study are examined the head of a rural commune or a mayor (city president) makes a project of the study considering the arrangements of the voivodship spatial management plan. Next, the project of the study is given an opinion by a proper Committee for Town Planning and Architecture as well as undergoes the arrangements with the voivodship board and a voivode concerning its conformity with the arrangements of programmes of public purposes of national significance. Irrespective of that, the head of a rural commune or a mayor (city president) requests opinions on the solutions applied in the project of the study from: the head of the county, neighbouring communes, proper Voivodship Conservation Officer, proper institutions for military, border guards and national security, director of the proper Maritime Office concerning management of the coastal technical and protective belt, sea harbours and marinas, proper body for mining supervision concerning management of the mining areas, proper body for geological administration, minister proper for health care concerning management of the health-resort areas.

Having obtained the above mentioned opinions the head of a rural commune or a mayor (city president) introduces the resultative changes and announces the project of the study available to the public supervision at least 14 days prior to the exposure of the project and at least for 30 days. Meanwhile, he/she organizes a public debate on the solutions accepted in the project of the study and simultaneously sets the deadline (proclaimed in the announcement) up to which legal or natural persons and organizational units without legal entity may put forward remarks concerning the project of the study, not shorter than 21 days since the last day of exposure of the study project to the public.

Until all the aforementioned activities are finalized, the head of a rural commune or a mayor (city president) presents to the commune council the project of the study, together with a list of issues that have not been met, for passing. When passing the study, the commune council, simultaneously decides the way of settling the remarks to the project of the study lodged while it was made available to the public. The text and the blueprint of the study as well as an agreement on the way of settling remarks constitute annexes to the resolution on passing the study.

The legislator does not provide for the obligation to announce the study. It is a serious failure, which makes it difficult for the citizens to control the execution of communal spatial policy.

Any change of the study may only happen with the observance of due procedures of passing the study.

The costs of having the study made fall on the commune. The costs of having the study made or introducing changes resulting from the distribution of investments of public purpose of supra-communal significance adequately fall on the budget of the state, voivodship and county.

The study binds legally and determines the directions and ways of acting of bodies and units in the organizational system of a commune. The legal conformity of the resolution passed by the commune council is supervised by the voivode. In turn, the voivode's decision may be sued by the commune to the administrative court.

Lack of the study makes it impossible for a commune to pass local plans. Moreover, if a voivode's appeal to the commune council for passing the study turns out ineffective, the voivode is obliged to have a substitute local spatial management plan made. It especially refers to the area destined for investments of public purpose with national and voivodship significance, covered by a voivodship spatial management plan or adequate governmental programmes.

3.1.2. Local spatial management plan

Objectives and scope

Local spatial management plan should constitute a basic instrument of the communal spatial policy. The plan is made as the need arises with a few exceptions when they have to be made obligatorily. This plan is an act of local law. It means

that the local spatial management plan is binding for commune bodies, public institutions, and all citizens.

Main elements

Local plan obligatorily defines:

- purposeful usage of terrain and dividing lines distinguishing areas destined for different purposes or for a different way/mode of development,
- rules of protecting and shaping the spatial order,
- rules of preservation of the environment, wildlife and cultural landscape,
- rules of conservation of cultural heritage, monuments and goods of contemporary culture,
- requirements resulting from the need to influence the public,
- parameters and indicators of shaping up-building and terrain development, including building lines, overall dimensions of objects and indicators of settlement intensity,
- dividing lines and ways of developing terrain or objects under protection established based on separate regulations, including mining areas as well as those exposed to the danger of flooding and land-sliding,
- detailed rules of terrain development and restrictions in their usage, including prohibition to build,
- rules of modernization, development and building of communication systems and technical infrastructure,
- way/mode and time limits of the substitute development, organization/management and usage of terrain,
- percentage rates, based on which, communal fees for the rise in value of real estate are established.

Besides, depending on the needs, a local spatial management plan defines:

- borders of the areas requiring consolidation and exchange of real estate properties(merging and division),
- borders of the areas of rehabilitation of the existing up-building and technical infrastructure or re-cultivation,
- borders of the areas requiring transformations or re-cultivation,
- borders of the areas for building large surface trade objects,

- borders of the recreational-leisure areas and areas serving mass events purposes,
- borders of areas of monuments of extermination and their protective zones as well as limitations of running there business activity, according to the Act on Preservation of former Nazi Extermination Camps.

Procedure

The project of the local spatial management plan is made by the head of a rural commune or a mayor (city president). After working out the plan the head of a rural commune or a mayor (city president) settles arrangements with the voivode and the voivodship board as well as with the commune board as far as the conformity of the project with the governmental and self-governmental tasks is concerned. Also territorially proper bodies for national safety and other bodies have to be consulted due to regulations of special legal acts. The costs of arrangements fall on the bodies arranging the project of the plan. Furthermore, the project requires opinions on distribution of investments for public purposes, issued by heads of rural communes or mayors (city presidents) of areas neighbouring the area covered by the the plan.

The decisions of a local spatial management plan comprise the content of a resolution passed by the commune council and their scope is defined in accordance with the needs. They depend mainly on legal effects caused by the plan. Those include communal financial commitments requiring compensation for a loss incurred by individual owners of properties due to the enactment of a plan and other consequences resulting from limiting proprietorship to the properties covered by the plan. In the first case, a commune may incur expenditures connected with the necessity of buying out land to meet communal needs – especially roads – and to indemnify. Those expenditures are difficult to predict. In the latter case communal authorities get tangled up in numerous conflicts with the residents, which can negatively influence the possibilities for re-election.

The project of the plan after having been drawn up has to be scrutinized by the commune board in terms of its cohesion with spatial policy defined in the study of the conditions and directions of the spatial management of a commune. Later on it has to be submitted for approval and has to be agreed upon by proper bodies of public and self-territorial administration, accordingly to their competences resulting either from Act on Spatial Planning and Management or other particular acts.

In order to protect the third parties, the Act on Spatial Planning and Management has imposed on the commune board a long and complicated formal, appeal procedure in the mode of drawing up the plan by defining its subject matter and a territorial scope. Next, the commune board announces that it sets about working on the plan and simultaneously informs about a form, place and deadline for submitting motions to the plan (not shorter than 21 days). Additionally, it also informs about that fact in a written form all the agencies proper for setting the projects of the plan as well as the self-governmental legislative body.

The project of the plan, including an obligatory estimation of how much the decisions of the plan will affect the natural environment, is made available to the public only after it received an opinion and was agreed upon. All the parties involved in planning decisions must be informed in a written form, while all the other parties should be notified by an announcement in a form of a public notice. Having finalized all the arrangements and obtained all the necessary opinions the head of a rural commune or a mayor (city president) makes the project of the plan available to the public supervision for a period of at least 21 days and announces that fact at least 7 days prior to the exposure of the project.

Making the plan available for a public inspection most often results in numerous protests and accusations filed to the commune board. The commune board is obliged to examine them and carefully consider. Those motions that fail to be taken into account in the project of the plan shall be channelled to the commune board for a final settlement. The involved parties are informed about the meeting and the decisions taken by the commune board. People, whose motions have been rejected, have the right to appeal to the National Appeal Court. Only the resolution of the Court allow for submitting the project of the plan for adoption.

Despite the regular promulgating mode, all the parties involved in the proceedings are informed about the session of the commune board in a written form. The commune board's resolution, previously examined by a voivode and declared pursuant to the provisions, is gazetted at the voivodship level.

Going through a formal procedure of making a local spatial management plan may take up several years. The above mentioned operations have to be performed in the established order, which means that the whole procedure has to be repeated in case of necessary changes in the project of the plan due to the negative arrangements, opinions protests or claims.

The local spatial management plan is made at the expense of a commune. A commune covers also the costs of revising the plan. The exception to the rule is a plan made for the area, where the execution of public purposes is planned. The costs of making that/such a plan fall adequately on the state budget, voivodship self-government, district self-government or an investor.

In order to have the local spatial management plans validated the legislator obliges the head of a rural commune or a mayor (city president) to make an evaluation of changes in the spatial development of a commune and to submit the results of that evaluation to the council at least once during the term of office. The council, in turn, passes a resolution concerning the validation of the study and the local plans.

In order to make it possible for the citizens, organizations and institutions to have an insight into the binding regulations of communal law, the legislator obliges the head of a rural commune or a mayor (city president) to keep register of the local plans and motions for their making or changing. The register should be made commonly available for inspection, at the seat of the commune council. Every citizen has the right to inspect the study or a local plan and to receive excerpts and contours.

3.1.3. Conditions of development and spatial management

Managing the space in the areas which do not have a local spatial management plan is based on special regulations, i.e. legal acts standardizing specific walks of social-economic life. If regulations provided in those acts do not restrict investing in the given area, an investor may take up the intended actions. Lack of a local plan means lack of planning restrictions in investing. As a result, it gives better possibilities for the realization of investment intentions.

In a situation when there is no plan and a change in the development of the area occurs, provided the future building object does not have the notion of a public purpose or there will be a change in the usage of the building object or its parts, it is required to establish the so called conditions of development and spatial management.

The conditions are established upon a motion of an investor. The decision about the conditions of development can be simultaneously issued to more than just one person. Such a decision should define a type of an investment, conditions and detailed rules of terrain development and its up-building resulting from special

regulations, including service conditions for technical infrastructure and requirements concerning protection of third party interests, demarcation lines of an investment area, marked on a map in an adequate scale.

A decision about up-building the area is issued by the head of a rural commune or a mayor (city president) after acquiring the necessary legal agreements or decisions. In case of closed areas the decision is issued by the voivode, while in case of maritime inland waters and territorial sea, the decision on up-building/development is issued by the head of the territorially proper Maritime Office.

Investment of the public purpose is based on a local spatial management plan and in case of its lack – based on the agreement on finding the location. It is issued by the head of a rural commune or a mayor (city president) and in case of public purpose investments of national and voivodship level significance - it has to be arranged with the voivodship marshal.

The Act on Spatial Planning and Management obliges to ensure the conformity of the building license with special regulations and also simultaneously to fulfil the conditions, as follows:

- at least one neighbouring plot, accessible from the public road, is up-built in a way allowing for defining requirements concerning new up-building within the range of function continuation, parameters, features and indicators of shaping the up-building and terrain development, including the overall size and architectural form of the building objects, building lines and intensity of land use,
- area has a public road access,
- the existing or the designed and contractually secured public utilities are sufficient for the intended building project,
- the terrain does not require obtaining permission for the change of the usage of cultivable and forest land into non-agricultural and non-forest purposes or is covered by a permission acquired in the process of making plans, which have lost binding force,
- the decision is compliant with separate regulations.

3.2. Spatial planning at regional level

3.2.1. Objectives and scope

The reform of the structure of administration, which was introduced in Poland in 1999, caused the necessity of rebuilding the system of planning at regional level. The most important feature of the new structure was taking over some tasks and competences of the government by the two newly formed supra-communal self-governmental levels. A number of local bodies of public administration has decreased, i.e. 16 bigger voivodships have been established instead of the previous 49. Moreover, rayon offices, which covered several communes with their activities, have been closed down.

Bodies of public administration have been obliged to run a coordinated and cohesive policy of spatial management of the country with the governmental programs of objectives as their main working tool.

The structure of public administration at voivodship level functioning since 1999 in 16 voivodships meets the self-territorial structure at the voivodship level operating in the same 16 voivodships. Voivodship boards of self-governmental voivodships have been statutorily obliged to develop:

- voivodship development strategy,
- voivodship spatial management plan,
- voivodship programs (e.g. environmental protection, innovation support, and transportation development), including the regional operational programs, many years standing sector voivodship programs,
- periodical update of voivodship spatial management plan.

All the mentioned planning documents shall be of planning nature and shall be submitted to proper voivodship legislative bodies for passing. Before the voivodship spatial management plan is passed, it has to be agreed upon with the Prime Minister as far as the governmental objectives/tasks are concerned. Furthermore, the Prime Minister and the self-governmental bodies at the county and communal level have to pronounce their opinion on the plans.

3.2.2. Voivodship spatial management plan

A voivodship spatial management plan is the basic planning act of the self-government of the voivodship. It is integrally connected with a voivodship development strategy, which creates the directions of its socio-economic development. Neither voivodship spatial management plan nor voivodship development strategy does have the nature of legal and commonly binding act. However, they do bind – to a different extent – in the internal relations of public administration. The above mentioned planning acts belong to a category of general planning acts. They influence spatial and economic development of a voivodship to a great extent, almost limitless in a subject matter. Alongside, there are also sectoral and specialized spatial planning act in function – concepts and programmes referring to the areas and problems of spatial management. These problems focus on planning specialized (sectoral) undertakings, e.g. development of voivodship transport system. They do not have a nature of commonly binding legal acts. In internal relations of public administration they bind only after their arrangements are transposed to a voivodship spatial management plan.

Main elements

A voivodship spatial management plan, worked out for the area of the whole voivodship, is a general planning act of voivodship self-government. It defines rules of spatial organization of a voivodship, especially:

- basic elements of settlement network in a voivodship,
- system of protected areas,
- distribution/location of investments of public purpose of supra-local significance, especially objects of social and technical infrastructure,
- problematic areas, metropolitan and support areas,
- areas endangered by flooding.

Tasks included in the governmental programmes which serve the execution of public purpose investments, made by ministers and central bodies of public administration, are also taken into consideration in a voivodship spatial management plan. The plan also includes arrangements concerning national spatial management concept referring to the area of a voivodship.

Procedure

The act of law on entering the process of having the voivodship spatial management/development plan made is taken by a voivodship parliament. It is the Voivodship marshal, who is responsible for making the project of a plan and introducing it for passing to the voivodship parliament. Therefore the marshal of the Voivodship undertakes steps as follows:

- informs in the national press and makes announcements in the commune offices, county offices, marshal office and voivodship office that the act of law on entering the process of having the spatial management plan made, defines a form, place and deadline for submitting motions concerning the plan, not shorter than 3 months since the day of its announcement;
- informs bodies and institutions proper for issuing opinions on the plan, in a written form, about the fact of passing the act of law on entering the process of having the spatial management plan made,
- makes the project of the voivodship spatial management plan and an evaluation of its potential impact on the environment;
- obtains an opinion about the plan from a Voivodship Committee for Town Planning and Architecture;
- requests an opinion on the project of a plan from proper institutions and bodies, the voivode, county boards, heads of rural communes, mayors and presidents of the cities located within the voivodship as well as governmental and self-governmental bodies of public administration in the area adjacent to the borders of a voivodship;
- agrees upon the project with the bodies defined in separate regulations;
- presents the project of the plan to the minister proper or building and spatial management in order to be able to pronounce the project as compliant with the national spatial development concept and governmental programmes;
- presents the project of the plan to the voivodship parliament for passing.

After the plan has been passed by the voivodship parliament, the voivodship marshal puts forward to the voivode the act on enactment of a voivodship spatial development plan together with the documentation of planning works in order to check

its compliance with legal regulations and to have it announced in the voivodship official gazette.

The change of the voivodship spatial management plan is done according to the same procedure in which the passing was carried out.

The costs of having the voivodship spatial management plan made fall on the voivodship budget, except for the costs, which are the direct consequence of intents to execute public purpose investments of national significance. In that case, the costs of drawing up the plan burden the state budget or that of an investor.

3.2.3. Regional spatial planning and regional policy

Tasks at the self-governmental voivodship level, within the scope of spatial planning, will be executed for the first time. All of the voivodship boards have prepared the voivodship development strategies and the voivodship spatial management plans in the years 2000-2002.

Taking up those tasks has become necessary as there turned up a possibility of submitting voivodship programmes to the government and obtaining financial means from different sources, including the foreign ones.

The Law on The Rules of Supporting Regional Development passed by the national parliament on 12 May 2000 defined the rules and form of supporting regional development as well as rules of cooperation within that area between the Council of Ministers, bodies of public administration and the local self-government. It has especially defined the institutions supporting development, mode of operating and the rules of entering and executing a voivodship contract. Supporting regional development should be executed based on the national strategy of regional development and also on the initiative of voivodship self-governments. A voivodship contract defined the scope, mode and conditions of executing tasks resulting from voivodship self-governmental programmes, which got the support from the government and departmental tasks supported by self-governmental units and other authorized subjects.

In terms of spatial nomenclature “areas of support” are mentioned in the act. Detailed rules of separating those areas shall be included in the national strategy of regional development. Those areas are understood as parts of the country with developmental problems requiring specific actions from the Council of Ministers, public

administration or units of local self-government. The aim of supporting the development is to even out differences in the level of development of particular parts of the country and give equal opportunities to the citizens regardless of their dwelling place. The aim is also to decrease the level of economic backwardness of the poorly developed areas, which have less beneficial conditions for development. Simultaneously, the effort is also made to create conditions increasing the competitiveness of self-governmental communities.

An important role in the planning system is played by periodic reports on the status quo of spatial management. Based on them conclusions for potential changes in the planning policy and motions for changes in spatial development shall be drawn. It can be concluded that planning at voivodship level shall be of regional planning nature tightly connecting spatial planning with the economic one.

All the planning documents made at the governmental and self-governmental level shall be co-dependent. Such a co-dependence is ensured by the obligation of mutual agreeing upon plans. The most important role in the process of executing supra-local plans shall be played by local spatial management plans because every new investment made by specific governmental and self-governmental bodies has to have rooting in those plans. In case of governmental tasks approved by the Council of Ministers and voivodship programs passed by voivodship parliaments, a negotiating mode will be applied in order to include those tasks and programmes into local plans. The subject of negotiation will particularly be the costs connected with drawing up a plan and financial effects resulting from its enactment. A procedure of introducing an investment task, both a governmental and a voivodship one, to a local plan is not easy. It requires securing financial means in the budget, which can be a difficult barrier to overcome if talking about big investments.

In the scope of spatial planning, self-governmental administration at the county level has got very limited competences. It can only make analyses and studies in the scope of spatial planning within the area of their own subject-matter property. Thus, spatial management plans will not be made at that level and analyses and studies will not be binding. Proposals concerning making of or introducing changes to local spatial management plans shall be put forward to communes by county boards. Those proposals shall especially secure portions of land appropriate for execution of undertakings that county self-governments hold responsibility for.

3.3. Spatial planning at national level

3.3.1. Objectives and scope

The Act on planning and spatial management differentiates between shaping spatial policy of the state and its execution. Shaping spatial policy of the state belongs to the competences of the state bodies, while the responsibility lies with the Council of Ministers, respective minister for spatial management as well as other main and central bodies of public administration and voivodes.

The system of supra-local governmental planning acts is quite centralized. In the Polish system of spatial planning there are two separate sub-systems: centralized and less nationalized system of acts of spatial policy of the state and de-centralized system of self-governmental planning.

The system of acts of spatial policy of the state is constituted by:

- national spatial management concept,
- programmes including governmental tasks for the execution of public goals of national significance,
- other planning acts: periodical reports on national spatial management concept, programmes referring to the issues and areas remaining in the strategic and social-economic forecasts, studies and planning analyses.

3.3.2. National spatial management concept

The basis of the state's planning acts is constituted by the national spatial management concept. The country creates its spatial policy through that concept. The concept is an act of a special kind. It comprises mainly a set of planning pieces of information. In that meaning, the concept is a planning act of a prognostic nature. Thus, it does not have the value of an internally binding legal act, and even more so that of a commonly binding one. However, following the regulations of the Act on planning and spatial management, the Council of Ministers is obliged to decide to what extent the concept will form the basis for making programmes of execution of public goals of national significance. In the scope of those decisions the concept becomes a binding act for the bodies of public administration. Consequently, in that part the concept becomes a legal act, internally binding and decisive for the selection

of specialized planning trends (governmental programmes). Irrespective of that, the concept forms the basis for drawing up the voivodship spatial management plans.

The content of the national spatial management concept comprises determinants, goals and trends in the balanced development of the country. The fundamental assumption of the concept is the strategy of sustainable development. It enables an active and conscious shaping of the process of gradual liquidation of the existing disproportions as well as consolidation of the priority strategic goals and global European mega-trends of development.

The main motive for the selection of strategic goals constituting spatial policy of the state is a historical necessity, the opportunity to energize the development, and also to achieve European standards of social living through a significant increase of competitiveness of national economy in the open world system. Such formulated motive and general goal determine the system of co-dependant goals. In the most general and universal perspective they constitute the structure, in which:

- shaping mechanisms generating an effective socio-economic development of the country,
- gradual, but constant and socially discernible improvement of civilization standards of the society,
- protection and rational shaping of the natural environment,
- preservation of cultural heritage and consolidation of Polish identity in the space of the European system;
- increasing national security, are provided for.

The contribution of spatial policy in the execution of strategic goals should be forming spatial structures creating favourable conditions for an improvement of the living standards, active preservation of the natural environment and cultural heritage, economic growth, European integration and national security.

The evolution of locating Polish space in Europe and its internal determinants document that an open spatial system of the state, which would energize the transformations in the first decades of the 21st century, could occur through:

- capital metropolis Warsaw,
- a set of potential centres of social-economic development of European significance (so called Europolis),

- zones of potentially highest innovation and socio-economic activity alongside the zones of technical infrastructure,
- network of supra-regional and regional centres of balancing development,
- zones and centres of tourism,
- European and national ecological network of preservation and management of the natural environment.

3.3.3. Sectoral planning

Sectoral planning in the spatial aspect occurs in all the spatial scales in Poland. In most cases the arrangements of sectoral plans do not have legal validity. However, they are an important factor in taking decisions as part of the arrangements of spatial management plans. Spatial concepts of the development of technical infrastructure, building public objects etc., become effective only after they are transposed to plans of spatial management.

Programmes including governmental tasks serving the purpose of execution of supra-local public goals of national significance are specialized planning acts. They are drawn up by proper Ministers and central bodies of public administration, after submission for an opinion to the legislative bodies of proper voivodships.

Governmental programmes in question are given their final voice in resolutions of the Council of Ministers. Once the resolution is issued, the programme becomes a binding act and enters the register of programmes including governmental tasks serving the purpose of execution of investment of public goal of national significance. The register is kept by the Minister proper for building, spatial and housing economy. The task of that Minister is to take up actions, so that arrangements of the above mentioned programmes occurred in the voivodships' spatial management plans. In order to ensure that, the legislator obliges the Minister to put forward to a marshal of the proper voivodship a motion for incorporating the programme into the voivodship spatial management plan, so that it is further possible to transpose the arrangements of the programme into the studies of determinants and directions of the spatial management of a commune and their local spatial management plans.

4. Interdependencies

4.1. Hierarchy of planning levels

All the planning documents of lower levels should include the arrangements of the higher-ranking offices plans, i.e. to be compliant with them. However, the criteria for that compliance are not clearly defined and are rather dependent on the relation among the planning subjects.

4.2. Harmonisation of different planning areas at the same level

Harmonisation of plans at the same level is formally provided for by the requirement of making arrangements on specific plans with the plans binding for the neighbouring areas. In practice, it depends on the mode of execution of that requirement by the planning subjects.

4.3. Harmonisation between multi-sectoral and sectoral planning

In Poland, sectoral planning has a diversified formal and real significance. Harmonisation comes about, as in other cases, in the mode of arrangements between the subject of spatial planning and a proper body of public administration. In spatial plans there are also planning decisions of public and private subjects providing public services. Arrangements with bodies of public administration and economic subjects responsible for exploitation and development of technical infrastructure (transportation, telecommunications, power industry, water supply and sewage system, etc.) are of special importance.

4.4. Harmonisation between different sectoral plans

Harmonisation of that kind is not legally sanctioned. Sometimes it appears from detailed regulations, but in practice there are numerous difficulties resulting from the competing domains among individual ministries, governmental agencies and departments.

4.5. Consideration of planning approaches in neighboring countries and at the European level in the different planning levels

The Polish legislator does not require taking into consideration such determinants. In practice there is a co-operation among the planning subjects in the trans-border area. However, it does not have a formal character. Those questions are more and more often raised in the discussions on amendment of the Act on Spatial Planning and Management. It is anticipated that especially the new national spatial management concept and spatial management plans of trans-border voivodships should consider European determinants, the arrangements of the Territorial Agenda and the whole Rotterdam Process.