

## Spatial Planning in Germany

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Spatial planning in Germany, unlike in some other European countries, is not confined to land use planning, regulating exclusively the use of a certain piece of ground. It is rather a function to coordinate all spatially relevant interests, functions, programmes and projects. Spatial planning in itself has no funds or implementing powers, its task is above all to direct and facilitate the activities of other actors.

Competences of spatial planning authorities differ according to their position within the German administrative system. Government and administration in Germany are organized in a federal structure consisting of the national level, the states and local authorities. This has led to a somewhat complicated, but in itself logical distribution of competences within the field of spatial planning which is presented here in an overview:

#### *The National Level*

The federal government defines basic goals and principles of the country's spatial organisation ("Raumordnung"). Guiding principle of German spatial planning is the desire to promote an economically, ecologically and socially sustainable distribution of functions within the German territory. The goal of establishing equal living conditions in all parts of Germany has come under criticism lately and is currently revised. At the same time the coordination of spatial development according to concepts agreed on at the European level is gaining support. These goals and principles are spelled out into planning policies and infrastructure projects of national importance which are enacted and have binding character of varying degree.

The federal government also legislates regulations affecting local spatial planning: types of plans, possible contents, procedures for the establishment of plans including citizen participation etc.

#### *The State Level*

The goals and principles defined by the federal level constitute a framework for the 16 states which in turn specify spatial development aims for state and regional planning. These in turn obtain a legally binding status as well.

To ensure the compliance of local plans, state administration and dependent regional authorities have the prerogative to approve land use plans drawn up by local authorities.

The states also engage in the coordination and approval of public and private infrastructure of some spatial relevance.

Central planning competences in Germany, though, lie with the over 16.000 municipalities. On the local level several kinds and tiers of planning exist. Although there is no legal obligation, most municipalities engage in strategic planning concerning the spatial and functional development of the town or village. As a means to establish political consensus on general spatial development goals for a time span of 10 to 30 years a wide discussion process is launched with actors from the political arena, the civil society and the business community. While a general urban development plan covers the whole city, corresponding plans address certain urban quarters; especially the latter offers a scale which seems to be the most suited for enlisting active citizens' participation. The resulting document serves as strategic orientation for all actors concerned with spatial development and land use within the community. Although the strategic development plan more often than not is ratified by the local council it is legally non-binding and therefore cannot serve as reliable planning base.

Therefore municipalities are obliged to formulate two types of statutory land use plans. The preparatory land use plan ("Flächennutzungsplan", scale 1:5000 to 1:15000, according to area of the municipality) constitutes a framework instrument, while the binding land-use plan ("Bebauungsplan", scale usually 1:1000) serves as a regulatory instrument. The preparatory land-use plan covers the entire area of the municipality and indicates "the intended development of the community". It is legally binding for all public institutions, private actors are neither bound by it nor can they deduce any claims for building permissions on its grounds. The binding land-use plan is much more detailed, defining functions and intensity of use, basic urban design principles and the allocation of public infrastructure. Environmental aspects are becoming increasingly important in recent years especially through legislation by the European Union. This binding land-use plan is to be "evolved" from the preparatory land-use plan – which means that it need not be an enlarged copy, but may not contain major deviations. If these are deemed necessary, the preparatory land-use plan has to be changed in a parallel procedure. For both types of plans there are corresponding landscape plans and green disposition plans referring to natural features, planting and green elements.

Federal law obliges municipalities to address a considerable number of concerns (like socially just housing provision, economic development, environmental protection, interests of the public and private land owners etc.) when engaging in statutory land use planning. The law states that public and private concerns are to be justly weighed among each other and against each other. For fulfilling this demand, the local planning authorities may use a considerable range of discretion, as long as a just and intelligible procedure of "weighing the concerns" is observed and the plans conform to the goals of federal and state planning.

*Public Participation*

Public participation is playing an increasingly important role in preparing spatial development and land use plans. Local planning authorities are obliged to discuss drafts of land use plans with the public at an early stage. Once the plans have attained a certain thoroughness, the local councils approve a second public consultation. Private and public actors may raise suggestions and objections which need to be taken into account before the final version of the preparatory and binding land use plans are enacted as legal documents. Citizens and other actors affected by a binding land-use plan may demand its re-examination by the courts.

The regulations set down in binding land use plans restrict the owners of ground covered by the plan in what they may do or build on this site. At the same time the binding land use plan entitles them to put their land to the use specified in the plan. If a project conforms to the regulations of the plan and to technical and urban design requirements which are set out in state building regulations, the ground owner has the right to obtain a building permission. While traditionally all building projects needed to be approved by the municipality, in recent years an increasing amount of "regular" building project types for housing and business use were exempted from this need, if the projects conform to the applicable land use plans and building regulations. But even in the case that a project does not comply completely with these, a building permission can be applied for. Its granting is left mainly to the discretion of the local planner.

#### *Building Without a Binding Land Use Plan*

Whereas the preparatory land use plan covers the complete area of a municipality, detailed binding land use plans are usually prepared only for areas which are to be newly built or are in need of major restructuring. Therefore most of the existing built up areas of a town or village as well as the surrounding landscape are not covered by a binding land use plan. Applications for building permissions in already built up areas are judged according to the surrounding land uses. If the project in question conforms to the neighbourhood concerning function, intensity of use and urban design a building permission has to be granted. In the open landscape regulations are much more strict. Only a number of privileged uses stated minutely in federal law may be granted a building permission, but even then the municipality is advised to take a rather restrictive stand to avoid suburbanisation and the built up of the open landscape.

Certain alterations of this planning system were made throughout the years according to specific concerns of urban development at that time. When in the 1970ies the renewal of derelict urban areas became a prominent focus of the planning profession and the public, corresponding legislation was enacted facilitating public interventions in built up areas. The necessity to develop new building sites at a high speed and at times even against the interest of the private land owners was the reason for legislation facilitating public land acquisitions and the recouping of development value.

In 1993, in the wake of the German reunification, with the need to prepare binding land use plans faster and at the same time relieve the municipalities of planning costs, provisions for a stronger private engagement in statutory planning were made. These enable a developer to prepare a project specific binding land use plan which offers greater flexibility to include detailed agreements between municipality and developer concerning the characteristics of the project and the covering of development costs. Also this type of binding land use plans has to be ratified by the municipal council.

The most recent adaption of statutory planning addresses the consequences of the population decrease especially in some eastern regions of Germany, creating legal instruments to coordinate the necessary reduction of the building stock and infrastructure.

#### *Coordinated Local Planning*

Modern production structures and private mobility cutting across municipal borders make the coordination of spatial planning in neighbouring municipalities increasingly necessary. It is reflected in the rise of regional planning ("Regionalplanung") which is generally considered to be a task of the states. According to most state laws, however, the "client" of regional planning is a board made up of representatives of the municipalities and other local authorities concerned. Experience shows that this set-up is rarely able to agree on unpopular issues and implement the necessary measures.

Thus, attempts are being made to develop more effective structures. Most promising seems so far the one established by law for the Stuttgart region with a directly elected regional parliament; other city regions strive for a similar administrative organisation.

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