Sustainable urban development and management of areas in medium-sized and small towns in Germany and Slovenia (SUDMA)

Nachhaltige Stadtentwicklung und Flächenmanagement in mittleren und kleinen Städten in Deutschland und Slowenien

- Part I, Framework conditions -

An INTERREG II C - Project
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0. A transnational Project – Subject, Participants, Structure of the Research

Area management in medium sized and small cities is a major means of sustainable urban development within the European framework. Therefore, co-operational partners of Germany and Slovenia made a joint application in February 1999 concerning that subject to be promoted within the framework of INTERREG II C programme of the European Union. On November, 8th 1999 in a letter of the German Programmsekretariat of INTERREG II C (CADSES), we were notified of the permit according to the decision of the transnational steering committee.

The German partners of the transnational co-operation are igi Niedermeyer Institutes (Westheim), Thorn & Lunder law office (Munich) as well as the two cities Forchheim and Lauf an der Pegnitz. The Slovenian co-operational partners are the Geographic Institute of Ljubljana as well as the cities Nova Gorica, Kranj and Novo Mesto (see tab1).

The research project consists of three main parts:

I: The framework conditions for land management of medium-sized and small cities in Germany and Slovenia and a comparison of these
II: Land management concepts for each of the cities
III: Main thread and recommendations

This research paper contains part I. As far as parts II and III are concerned, please see the separate research reports.

1 Land management being a central topic of sustainable municipal development

The transnational project contains the concept development and research concerning the possible uses of integrated land management with regard to sustainability in medium-sized and small cities in Germany and Slovenia. The farsighted management of areas as a resource of cities is a major element of sustainable urban development.

Sustainability and planning principles of sustainability

Sustainable development needs to be seen in the context of economy – ecology – social aspects. A survey concerning the objectives of sustainable urban development is to be seen in tab. 2.

Principles of sustainability regarding land as a resource basically have the following objectives:

- to allow for future options for the spatial development of the cities with regard to the spatial functions of living, working and recreation (economic and social aspects) and
- to guarantee the long-term protection and development of spatial, ecological resources (ecological aspect).

It is a major aspect not to prohibit future development and to irretrievably lose unique qualities of a special area by applying short-term and one-sided land policies.

Ecological aspects Main objective: the preservation of the natural capital stock Objectives • to minimise the use of undeveloped areas (quantitative protection of areas) • to preserve coherent areas (structural protection of areas) • to minimise energy consumption • to minimise emissions caused by traffic • to reduce the exchange of goods on the intra- and interregion
Economic aspects Main objective: the preservation of economic functions Objectives: • to guarantee an adequate supraregional transportation system • to guarantee a demand-oriented infrastructure with regard to provision and disposal • extension of the infrastructure related to trade and industry • to guarantee a demand-oriented supply of attractive industrial parks for new settlements and resettlements of companies. • to improve the attractiveness of existing industrial areas in order to contribute to caring for and securing their future existence.
Social aspects Main objective: the conservation of social peace Objectives: • to guarantee a demand-oriented supply of housing areas for all the social classes • to guarantee the basic supply of goods and services • to guarantee a demand-oriented supply of educational facilities, of social, cultural and technical infrastructure • to guarantee an adequate supply of leisure time and recreational facilities • participation of the municipality with regard to the planning and decision-making processes

(from: Hilligardt 1998, p. 14 adapted)

Tab. 2: main objectives/objectives of sustainable urban planning

There follows a list of further and more specific strategies and objectives of sustainable management of urban areas (see tab. 3).

Principles of an economic use of land

- reducing the extension of built-up areas
- repeated use of land within developed areas (empty lots, fallow and conversion lands)
- condensation and mixed use areas (intensified condensation in housing areas, exhausting the potential for different uses and extension, renewal of industrial areas and securing locations in mixed use areas)
- preserving and connecting natural areas which are significant for the climate
- reducing the sealing of soil
- balancing land use for settlements by creating compensation areas
  to direct the supply and demand of land for settlement in such a way as to preserve resources by spatial planning, even in a regional context, and using new taxation strategies

(compare BFLR 1997, p.3; BFLR 1996, p.72 ff)

Tab. 3: objectives and principles of action for sustainable land use

Integrated land use management

One possible approach to promote a preserving and economic use of land is the application of an integrated land use management in the cities.

Integrated land use management is to be seen as a means that co-ordinates information existing in different sectors of the municipalities in order to guarantee a farsighted use of land, and by linking the information gives a new quality to the basic prerequisites for the decision-making process and possible solutions for the development of land within the cities. It is to be seen as a qualitative means which goes beyond the quantitative evaluation of land development and land use and beyond the sectoral evaluation.

The integrative approach aims at different aspects:

> orientation within a framework of objectives, which contain economic as well as social and ecological aspects. This means to leave open future options for action for the spatial development of cities with regard to the spatial functions of housing, working and recreation (economic and social aspects), and to guarantee the long-term preservation and development of spatial, ecological resources (ecological aspect).

> to record and to link spatial data and information that are known by special sectors only (e. g. different administration units), which allow for definite statements con-

cerning the most various spatial features of quality (e.g. specific or unique land qualities within the cities – for example - regarding traffic systems, availability, climatically relevant balance).

> to show farsighted solutions of specific problems that integrate various aspects, as for example, the definition of priorities for different area potentials and qualities according to new points of view, or the integration of new municipal demands concerning the supply of land (e.g. the selection of potential balancing and compensation areas as a result of the modification of the nature protection act concerning urban land use planning).

The type of management which has its origins in modern administrative doctrine is formally defined by processes of decision-making and by realising these decisions within complex systems. Integrated management, as it is seen here, primarily means the process of decision-making and the preparing of decisions (e.g. the definition of priorities).

Integrated land management in this context is not an equivalent to so-called sectoral approaches to land management, as it is partially operative in communities with regard to the re-activation of fallow land, to actively supplying building land, the promotion of industrial areas (industrial land register), or lately, with regard to compensation concepts (eco-accounts) enforced by the nature protection act. It is also necessary to give a clear definition of integrated land management as against land management which is applied by cities (synonym of soil management) and which refers to communal land policies (see RACH 1994). It refers to activities of communal building land policies, which contain – among others – the legal preparation of planning, land use plans, development, the price of land and the marketing of land, and this means that the aspects of realisation are more relevant and the activities refer especially to the aspects of getting and using building land. Integrated land management is also different with regard to the use of related data within the scope of providing or revising preparatory land use plans (see chapter 2.3.3).

Integrated land management is an informal means, which – as far as possible – uses information which has already been gained by the municipalities, and which is primarily oriented towards the administrational situation and the specific framework of medium-sized and small cities.

In medium-sized and small cities (with a maximum of about 50 000 inhabitants) there is a special call for action. It is true of cities of that size that there are increasingly the same problems as there are in bigger cities (among others: increasing land restrictions and more complex co-ordinational agreement between different claims for land use), on the other hand there are still considerable potentials for land development and specific natural and ecological qualities. At the same time, medium-sized and small cities have been neglected so far with regard to professional research, especially as far as the use of land is concerned (e.g. the means which are used, principles of action or the use of qualified personnel).

On the German side, it is to be noticed that there is an intense discussion among planning professionals with regard to the necessity of a regional, that means a supra-communal, land management. In practice, however, there is little acceptance of that attitude especially in medium-sized and small cities. If we compare them to bigger cities and to the cores of cities of conurbations, those can still in some parts provide bigger potentials for land development. The willingness to co-operate on an inter-communal level is relatively small so far, especially with regard to a joint land development. Therefore, it is one of the premises of this research to investigate where there are possibilities to optimise co-operation for a farsighted use of land, especially within a communal context.

It is typical of the Slovenian situation that the discussion and application of sectoral land use plays an important role at the regional as well as the communal level. As a result of the transformation process, the structuring of the communal spatial planning has not been finished yet, and it is enormously difficult to find acceptance with politicians and private property owners as far as professional principles and objectives are concerned. Especially medium-sized cities, however – being potential regional centres – suffer from a considerable urge to develop sufficient areas of land as a result of an economic boom. As against many German cities, they can still provide considerable land potentials. This means, there is a good chance for integrated land management considering aspects of sustainability to become active at an early point of time within the decision-making process regarding future land development.

As land use is one of the major aspects of communal authority, it is influenced by a great variety of factors. Therefore, the following chapters will show the framework conditions and influence on the use of land and land management of Slovenian and German

cities. The powers of influence combine essential constitutional, legal planning and organisational framework conditions, as well as social and economic powers of influence.

As for example, the national and administrational structure is decisive for the organisation of the land related planning administration, that means, it decides on the competence of the different administrational levels. The position of the communities and the way they gain their revenue, as in Germany, for example, by charging a trade tax, is an important power of influence to create new industrial areas. Last but not least, the general economic and social conditions of a country, as for example increasing affluence, will take an influence on the framework conditions for the need of land (e.g. more and more single households with an increasing need of space).

2. Germany

2.1 General and institutional framework conditions

2.1.1 The structure of the state and the administration

A federal system

Federalism, as the state system of the Federal Republic of Germany, is entrenched in Article 20 para. 1 of the Basic Law (Grundgesetz), where it is written: "The Federal Republic of Germany is a democratic and social federation". Article 79 para. 3 of the Basic Law guarantees the continuity and integrity of this federal structure.[1]

A report on the way that this federal system functions and on its institutions needs a definition of the word "federalism". "Federalism" is a principle for the organisation of a structured polity in which equal and independent "limbs" join together to form a political whole.[2]

The reason given for the choice of the federal system is the historical development and the ethnic structure of German society.

The basic principles of federalism are the subsidiarity principle and the separation of functions in the federal state. These are directly related to the idea of the separation of powers.

The separation of functions in the federal state between the Federal Government and the States relieves the Federal Government of functions which can be better fulfilled by the States, because they are rooted in a certain locality, for instance, or because they can tackle problems at the root. At the same time it enables the Federal Government to concentrate on areas which have to be regulated centrally as a matter of necessity, as otherwise matters which affect all the States could not be dealt with in a satisfactory manner. At the same time, the relief on the centre of decision-making reduces complexity and increases the effectiveness of state action.

However, in order to prevent the relief of the central state from leading to excessive strain on the "limbs" or the "communes" (as their means are limited in terms of both personnel and finance), it makes sense for the separation of functions to follow the subsidiarity principle.

[1] See Jarass/ Pieroth, GG, Art.20 no. 16 in the margin, Art.79 No. 8 in the margin
[2] See S. Magiera, Föderalismus,1994, p.73 with further notes

The subsidiarity principle was developed from considerations concerning the social contract and the principle of the separation of powers.[3]
It states that communities at a higher level should only perform functions which smaller, subordinate communities cannot perform equally well or even better.
This principle is closely linked with the notion of the vertical separation of powers between the Federal Government and the States and causes the last piece in the constitutional pattern of the federal system to fall into place.

Concurrent legislation

The separation of functions between the Federal Government and the States can be seen to operate in the principle that the States are generally entitled to have a say in the legislation process, which is also sanctified in Article 79 para. 3 of the Basic Law.[4]

As far as legislation is concerned, Article 70 para. 1 of the Basic Law, which enlarges on the principles set out in Article 30[5], gives the States authority to legislate in as far as the Basic Law does not give authority to legislate to the Federal Government. In the field of legislation, however, this is very often the case due to the exclusive power to legislate granted in Articles 71 and 73 of the Basic law and the principle of concurrent jurisdiction set out in Articles 72 and 74.[6]

In the case of concurrent jurisdiction to legislate, the States are authorised to legislate with two restrictions.

First of all, the Federal Government must not have made use of its authority to legislate in the area in question.[7]
Secondly, however, according to Article 72 para. 2 of the Basic Law, the Federal Government only has authority to legislate in the case of concurrent jurisdiction if the facts in question are within its sphere.

In the case of land planning which is the subject of this report no express jurisdiction has been given to the Federal Government under Article 70 *et seq* of the Basic Law.

[3] See J. Isensee, Subsidiaritätsprinzip,1986, p.19
[4] See Jarass/ Pieroth,GG, Art.79 no. 9 in the margin
[5] See Jarass/ Pieroth, GG, Art.30 no. 1 in the margin
[6] See K.Reuter,Grundlagen,1996, p.39 *et seq*
[7] See Jarass/ Pieroth, GG, Art.72 no. 2 in the margin

The Federal Government's authority to legislate in the field of public building law was the subject of a legal expertise by the "Bundesverfassungsgericht" (the Federal Constitutional Court), known as the "Baurechtsgutachten"[8]. The Federal Government applied for this expertise when carrying out the preparatory work on the BbauG.
In their expertise the "Bundesverfassungsgericht" ascertain that as far as the authority to legislate conferred by Article 74 para. 1 no. 18 of the Basic Law is concerned, this particularly includes the right to carry out town planning, i.e. urban development planning, the allocation of land suitable for development, development and the evaluation of the soil.[9]
On the other hand the *jus soli* does not include regional planning in respect of the Land and town and country planning, which are also relevant in this case.[10]

At the same time the court expressly repudiate the idea that the Federal Government's jurisdiction for building law as a whole, particularly "the law in relation to building permits as has hitherto been customary", can be derived in blanket form from Article 74 para.1 no.18 of the Basic Law.
As far as the other areas are concerned, the separation of the power to legislate enshrined in Article 70 of the Basic Law thus remains in force. This means that the States generally have jurisdiction to legislate.

Levels of administration and spheres of competence

The Federal Government and the States
German federalism is characterised by the functional differentiation of types of jurisdiction. The predominance of the Federal Government in relation to legislation is matched by the dominance of the States in terms of the administrative function, that is in the enforcement of the law and enforcement administration and in other governmental administration and special administration.
Article 83 of the Basic Law explains the principle of the exclusive jurisdiction of the States enshrined in Article 30 of the Basic Law.[11] This means that under the law, and also in practice, it is the States who are mainly responsible for administration and this is

[8] Expertise of the BVerfG on the passing of the BBauG; BVerfGE 3, 407;
See also Friauf, p.619 *et seq*
[9] See Battis/ Krautzberger/ Löhr, BauGB, introduction, no. 10 in the margin
[10] See Jarass/ Pieroth, GG, Art. 74 no. 39 in the margin
[11] See Jarass/ Pieroth, GG, Art. 83 no. 9 in the margin

also their main function. It is therefore only in limited areas that the Federal Government has its own executive authorities. Otherwise the Federal Government has to rely on the administrative activity of the States.

There are three ways of enforcing federal laws, namely the normal case, which is independent administration by the Land, the administration of contracts and the exceptional case of administration on the part of the Federal Government.[12]

The normal case, independent administration, is when federal laws are enforced by Land administrations or by communal administrations as their "own affair" in accordance with Article 84 of the Basic Law. In this case the States, in accordance with Article 84 para. 1 of the Basic Law, regulate the administration procedure themselves, in as far as this does not conflict with federal laws approved by the Federal Council (the Upper House).

The Federal Government merely has the function of supervising the legality of administrative acts, which means that the Federal Government can review the administrative acts of the States in terms of legality.[13]

However, in the normal case the Federal Government will not be able to issue any further instructions.

The administrative costs are borne by the States themselves.

In the case of the administration of contracts, as defined in Article 85 of the Basic Law, it is a matter for the States to set up the authorities, but these Land authorities must nevertheless obey the instructions of the highest federal authorities.[14] In the case of the administration of contracts, the Federal Government does not restrict its supervisory function to merely testing legality, but extends it to matters of substance, which means the examination of the expediency of the administrative acts of the States.[15]

According to Article 86 of the Basic Law, administration on the part of the Federal Government itself is limited to just a few areas which are listed individually in the Basic Law and which are not of any relevance for this report.

[12] See Jarass/ Pieroth, GG, Art.83 no. 1 in the margin
[13] See Jarass/ Pieroth, GG, Art.84 no. 12 in the margin
[14] See Jarass/ Pieroth, GG, Art.85 no. 5f in the margin
[15] See Jarass/ Pieroth, GG, Art.85 no. 8 in the margin

administrative districts (Regierungsbezirke) – counties (Landkreise) – communes (Gemeinden)

On the level of the States a distinction must be made in the executive function between the administration of the Land and local administration. The latter is split over three levels: communes (Gemeinden), counties (Landkreise) and districts (Bezirke).

Communes are for purposes of self-administration in accordance with Article 11 para. 4 BV and serve to realise the democratic principle, from bottom to top. They thus form the basis of the democratic state.

Bavaria has administrative districts (Regierungsbezirke), a peculiar feature in Germany, and these count among the "higher communal associations".

The right of self-administration guaranteed by Article 28 para. 2 of the Basic Law gives rise to the principle of the exclusive jurisdiction of the communes for the fulfilment of all local tasks in their area. It is not necessary for there to be any express enablement by virtue of a law.[16]

2.1.2 The position of the communes

Communal tasks

In listing the tasks of the communes we not only need to differentiate between duties and voluntary tasks, but also between communes which belong to a county and those which do not. Both forms of communes perform the voluntary tasks and duties deriving from their own jurisdiction and the tasks deriving from delegated jurisdiction in accordance with Article 7,57 GO (local government law) and Article 8,58 GO. In addition, the towns which do not belong to a county have to perform their own tasks and the tasks of the county which have been delegated to them in accordance with Article 5,51 and Article 6,53 LkrO. They also perform the tasks of the "Landratsamt", which is the lowest form of state authority according to Article 37 para.1 sentence 2 LKrO.

There is no principle of general jurisdiction for counties and districts, which means that the counties and districts may only perform the tasks allocated to them by law.

[16] See Jarass/ Pieroth, GG, Art.28 no. 12 in the margin

Communal sovereignty in relation to planning

In addition to sovereignty in matters of personnel and finance, one of the typical matters for the communes in the meaning of Article 28 para. 2 sentence 1 of the Basic Law is sovereignty in relation to planning.[17]

An important element of communal sovereignty in relation to planning is urban development planning[18], which, at the same time, represents a core part of the constitutionally guaranteed right of self-administration of the commune in matters concerning the local community pursuant to Article 28 para. 2 of the Basic Law.[19]

According to s. 1 para. 3 in connection with s. 2 para. 1 sentence 1 BauGB (Town and Country Planning Code), the commune has exclusive responsibility for drawing up urban development plans, as soon as and in as far as it is necessary for the development of the area and public order. Urban development plans (Bauleitpläne) in the meaning of s. 1 para. 2 BauGB are the land development plan (Flächennutzungsplan), as a preparatory urban development plan, and the building scheme (Bebauungsplan) as the binding urban development plan.

Communal sovereignty in relation to planning is therefore limited to matters to do with the local community and runs up against its limit in "the framework of the law".[20] The supervisory board for the commune has the function of ensuring that communal sovereignty in relation to planning remains within the framework of the law. This means that approval is required pursuant to s. 6 para.1 BauGB.[21] The exercise of the planning discretion which flows from communal sovereignty in relation to planning is legally defined and structured as the "duty to balance interests" in s. 1 para. 6 BauGB.[22] The "duty to balance interests" set out in s. 1 para. 6 BauGB means that in preparing urban development plans a just balance must be met between public and private interests. With the development of this legal construction, jurisprudence and academic writers have recognised the increasing importance of planning as a public act in a social state and have taken account of the different legal structure of planning law in comparison with other administrative standards.[23]

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[17] See Pieroth, in: Jarass/Pieroth, GG, Art.28 no. 13 in the margin
[18] See BVerfGE 56, 298 (312f.);Battis, ÖffBauRu.RaumOR, S.56ff.;Finkelnburg/Ortloff, ÖffBauR (volume 1), p.26ff.;
[19] Battis/ Krautzberger/ Löhr, BauGB, § 1 no. 3 in the margin
[20] See Stollmann, Öfftl. BauR,§ 2 no. 18 in the margin
[21] See Battis/ Krautzberger/ Löhr, BauGB, § 6 no. 1 in the margin
[22] Battis/ Krautzberger/ Löhr, BauGB, § 2 no. 4 in the margin
[23] Battis/ Krautzberger/ Löhr, BauGB, § 1 no. 87 in the margin

The communal budget/ the composition of receipts

The large number of tasks delegated by the state to the communes in respect of building law has particularly given rise to additional costs as it must be ensured that the tasks are performed constantly, especially the duties and the tasks which fall within the sphere of delegated jurisdiction.

The financial system and, within it, the allocation of taxation receipts, thus form the hidden backbone of the federal constitution set out in the Basic Law. This is because the jurisdiction of the communes is only of any substance if there are sufficient funds in order for it to be exercised.

A commune has two sources of income, first of all its own income from the its local sovereignty in relation to finance, and secondly foreign sources of income from financial equalisation between the communes.

To ensure that the communes have sufficient funds, the legislator has given the communes sovereignty in relation to finance, as provided for in the Basic Law. This also includes fiscal sovereignty.[24]

In Article 106 para. 5 *et seq* the Basic Law sets out the main sources for the funding of the communes: a share of income tax in accordance with Article 106 para. 5 of the Basic Law [25] and financial equalisation in accordance with Article 106 para. 7.

There is a guarantee of impersonal taxes (Realsteuergarantie) and the receipts from local expenditure tax (Aufwandsteuer) in accordance with Article 106 para. 6 of the Basic Law.[26]

Due to the sovereignty which they have been granted in relation to finance, the communes are authorised to levy charges in order to perform their tasks, in as far as other income from their share of economic transactions, such as income from rent, leases or interest, is insufficient. The possible charges include taxes, contributions, fees and other charges.

According to Article 106 para. 6 of the Basic Law, the impersonal taxes which accrue to the communes are land tax and trade tax.[27]

Another thing which is important for the management of an area are local improvement charges, which are also raised by the commune.

In addition to this, the communes receive further funds from the financial equalisation between the communes. Allocations from state funds for communal overground con-

[24] See Jarass/ Pieroth, GG, Art.28 no. 14 in the margin
[25] See Jarass/ Pieroth, GG, Art.106 no. 13 in the margin
[26] See Jarass/ Pieroth, GG, Art.106 no. 15 in the margin
[27] See Jarass/ Pieroth, GG, Art.106 no. 15 in the margin

struction measures, for example, are granted in accordance with Article 10f. FAG. This allows the communes to carry out large-scale building projects.

Funding is also guaranteed for the counties and districts, but this is largely achieved in the form of the apportionment for counties and districts in accordance with Article 18 and 21 FAG, which forms their major source of income.[28] This means that if the counties do not receive sufficient funds from their income, they levy a charge on the communes which belong to the county and the districts levy a charge on the towns that do not belong to a county and on the counties. The charge is assessed as a certain percentage of the basis for the apportionment, which is known as the rate of assessment for counties and districts (Kreis- bzw. Bezirksumlagehebesatz).
Income from the charges which they levy themselves is low as they do not benefit from the income tax collected by the communes and can therefore only rely on fees.
The shortfall is then made up for by financial equalisation.

2.1.3. Economic and social situation

Since the 19th century spatial structures in Germany have changed in a way not known before, and this change has happened very quickly (IÖR 1997). If we look at the consequences resulting from that change from the viewpoint of land use, we see that there is a rapid increase in building land, and on the other side, natural areas have permanently been reduced (see chapter 2.2.3). This process of an increasing use of land basically has not changed and for the future there isn't any change to be expected either. Between 1993 and 1996, there was a daily increase in land used for settlement and transportation of about 84 ha within the Federal Republic of Germany. In 1997 the share of land used for settlement and transportation was 11.8%, and a share of 13.4% is expected for 2010 (BBR 1999 b).

Then and now, the same social and economic conditions and developments have caused an increase in the need for land. But nevertheless, the reasons for an increasing demand for building land have changed during the last two centuries.

[28] See Jarass/ Pieroth, GG, Art.106 no. 17 in the margin

In the 19th century, there was the start of an intense process of urbanisation – caused by industrialisation – which meant that extensive industrial estates and numerous new city districts were built. As railroads were being built as well, towns in the vicinity of bigger cities became part of that process of urbanisation, too (IÖR 1997).

That process was intensified by a growing population. The population growth started at the beginning of industrialisation and continued rather steadily until 1914 – the beginning of World War I.

There followed a period of stagnation, caused by two world wars, a worldwide economic crisis and Germany's political isolation during the Nazi regime. This changed in the late fifties with the enormous economic growth of the then Federal Republic of Germany. As a result, there was a strong increase in the demand for land for industry and trade, as well as for housing and transportation. This process was intensified by a steady flow of exiled persons, for whom complete city districts needed to be built.

This situation of undiminished growth continued until the early seventies with the beginning of the first oil crisis. Additionally, in the sixties and seventies, people gradually realised that an unrestricted use of land – caused by economic growth and an increasing standard of living – would definitely result in serious ecological conflicts. In order to prevent these conflicts, which were feared to be destructive to living space and economy in the end, a number of planning means were being created for the first time, with the objective to reduce the negative results of undiminished growth (e.g. Federal building act 1960, Federal spatial planning act 1965, Federal promotion of urban development act 1971).

In spite of those planning measures, it is still true today, that it is possible to regulate the use of land, but in fact it has not been possible to really diminish it (see chapter 2.2.3).

So, there is still the decisive question: which are the present social and economic framework conditions that still cause an undiminished use of land (BFLR1996).

There are two basic reasons responsible for an undiminished use of land:

1. Social and family structures have changed, and there is a still increasing standard of living,
2. economic growth is one of the main objectives of our economic system.

Population growth, however, is no longer one of the reasons for an increasing demand for land, as the population numbers of the Federal Republic are not growing as quickly as the land used for housing, trade and transportation.

So, in the Old States of the Federal Republic, the space of building land has doubled during the last 40 years, whereas in the same period of time, the population has increased by 30%, and the number of employed persons has increased by only 10% (BBR 1999b).

The two basic reasons mentioned above will be explained in the following:

Changed social and family structures and a still increasing standard of living

Generally the number of households in the Federal Republic of Germany is increasing, whereas – on the average – the number of persons per household decreases. There are various causes for that trend, which in the end can be summarised by the term "individualisation of our society" (PRIEBS 1998).

Before the beginning of the industrial revolution, the extended family was the usual form of living. This changed as a result of industrialisation and urbanisation, and nuclear families became the norm. The tendency of dissolving family structures is being repeated: now, at the end of the 20th century, the number of singles and of households consisting of just two persons is increasing. In small households the floor space per person is definitely bigger, as the space of some areas within or outside the living unit (e.g. kitchen, washroom, bathroom, living room, garage etc.) is not dependent on the number of persons living in the household. Indeed, the demand for floor space has increased since 1950 from 15 m2 per person to 38 m2 per person in 1997.

An increasing number of small households with a high demand for space is not restricted – as might be expected – to the younger generation, but is especially typical of the older generations: a great number of senior people do stay in their big houses, when their children have left the home, and they stay alone in the house if their partner has

died. Meanwhile their children have built their own home in a modern estate, and so, the spatial need of an "extended family" has considerably increased.

Of course, that development is possible only because of a very high and still improving standard of living. There are interactions dependent on the economic framework conditions, which will be explained in chapter 2.

Generally, our improving standard of living has enforced the tendency to live in a suburb in one's own house. A tendency which results from the individualisation of our society and which has been popular for several decades since the late sixties, especially with young families. This tendency has still been enforced by government programmes (**Eigenheimzulage**) , building society premium, employer's contributions to tax-deductible savings scheme). Numerous modern estates have been created in the suburbs surrounding the cities. Building activities have extended ever farther into undeveloped areas (process of suburbanisation). Besides growing demands for floor space, this development also shows an increasing scarcity of building land in the cities, which also means tremendously climbing prices of building land that can hardly be met by young families with little children (BBR 1999).

This development has only been possible by consequently developing transportation, and here especially the motorway network. This development demands vast expanses of land, and there are interactions as well between social trends (individualisation) and the economic situation (economic growth enforced by a powerful car industry).

An economic system aiming at permanent growth

Our economic system is striving for permanent growth. This is not only true of individual national economic systems, it is a phenomenon which exists worldwide. Only if there is sufficient growth, aims such as full employment will be realised. Meanwhile, people realise – partially at least – that on a finite planet unlimited growth just won't be a realistic objective, but at present there is no strategy for developing an economic system which will meet our needs for food, goods, employment etc. without economic growth.

With regard to such a highly industrialised country like the Federal Republic of Germany, the biggest economic problem isn't to supply the population with goods, but to provide

them with jobs. So far, there are no definite economic measures to change that situation in the near future, and a continuous economic growth is required in order to guarantee a tolerable number of unemployed.

Permanent economic growth also requires the supply of areas for industry and trade. Additionally, the floor space required by each working person has increased, similar to the increasing floor space for homes. This especially applies to removals from the inner cities to outskirts areas (IÖR 1997). This development is the result of technological progress, which results in the fact that a vast warehouse is being managed by just one employee or a small number of specialised workers control the production of goods on an assembly line ("factories without any workers").

As a result of these parallel developments (the need to create new jobs, an increasing need for floor space per working place), the growth rate of areas for industry and trade has even been bigger than the growth rate of areas for housing (BBR 1999 b).

There are further aspects which result in growing need for land:

- In Germany, local business tax is to be paid to the municipality to which the firm belongs. This means, municipalities very generously provide trade areas. In order to be competitive some communities very aggressively offer favourable trade areas. So the taxation laws together with the planning sovereignty of the communities automatically permit a very generous use of areas.
- Undeveloped areas owned by communities have to be cared for without earning money by using them. This also applies to unused or just extensively used undeveloped areas in private ownership. This does not refer to private area reserves (e.g. building sites for one's children or as speculation objects). So, there is a financial incentive for private owners as well as the municipalities for a profit-orientated use of undeveloped areas. It is even true of agrarian areas that it is more profitable to use the land for building than to continue and use it agriculturally.
- Most of the supply of new commercial areas is still to be found on so-called "white land" on the outskirts of the cities. Former industrial or military areas are hardly ever considered to be integrated into new planning. The reasons which are mentioned for doing so are the high costs to be met as well as the fact that it is often difficult to find out who will finance and who is responsible for the redevel-

opment of former sites. These problems arise as the former owners are often not to be found out. Or, if there are several joint owners, longstanding legal proceedings concerning liabilities will prevent renewed development of the area. A comprehensive public advance financing could solve that problem.

- Considerable extents of land have also been used as a result from the tendency of the retail trade to leave the city centres in favour of huge market centres on the outskirts. At the same time sales areas in the inner cities have remained unused. This trend is to be seen as a result of the conditions mentioned in 1): there has been an increase in housing areas in the suburbs, and at the same time people have become more mobile by using their own cars. This together has favoured the development of new market centres with huge car parks on the outskirts of the cities, and at the same time has had a negative effect on the businesses in the city centres (difficult to reach by car, hardly any car parks).

Besides the aforementioned economic and social reasons for increased land use during the last decades, there are also some principles in the German planning laws which result in a development that actually has not been intended. Those principles are on the one hand the planning sovereignty of the municipalities, which often results in short-term planning that doesn't consider aspects of public welfare, and on the other the model of spatial separation of living and working areas, of areas for supply and recreation, which has been a major planning objective for many years (see chapters 2.2.2 and 2.2.3, BFLR 1996).

Result

Although the planning laws that are in effect now are responsible, too, the major reasons for a longstanding very generous land use are to be seen in the social and economic framework conditions. Just to modify planning laws will not be an effective means to diminish still increasing land use. But it will be reduced and regulated, at least, by using specific legal and informal planning measures. However, by doing so the social and economic framework conditions will always have to be considered.

2.2 The system of spatial planning

2.2.1 The legal basis

The concept of area planning extends to urban development planning and the various levels of the law governing town and country planning. A feature of town and country planning is that although it includes social, cultural, economic and financial aspects, it is directed towards the a certain area, a non-expandable section of the earth's surface. The purpose of area planning is to allow the area to be used in a way which is likely to best satisfy public and private interests in the future under existing circumstances.
Apart from their connection with a certain area, town and country planning and urban development planning have another common denominator, which is to co-ordinate the area-planning measures of the various executive authorities across regions and areas of specialisation.[29] This corresponds to the task of urban development planning, which is to organise the entire urban development of a commune and to co-ordinate and organise the various plans of other planners in the meaning of ss. 1,2 BauGB[30], in as far as these plans relate to the area.
Due to their function of co-ordination and integration, town and country planning and urban development planning are subsumed under the heading of general planning (Gesamtplaning).[31]
Under the law this general planning is carried out on four levels, namely town and country planning for the Federal Republic as a whole in accordance with ROG, town and country planning for the States in accordance with LPlG, regional planning and urban development planning in accordance with BauGB.
The standard opposite of general planning is special planning, which also relates to an area, but which is limited to a certain project, such as the planning of a motorway in accordance with ss. 16ff. BFStrG or the development of a body of water in accordance with s. 31 WHG. Special planning measures are usually carried out in the form of a special process involving the official approval of the plan, but this is not the subject matter of this report.

Depending on jurisdiction, the relevant legal basis for matters concerning building and area planning can be found in both federal and Land legislation (see tab.4).

[29] See Stallmann, Öfftl. BauR, § 1 no. 15 in the margin
[30] See Battis/ Krautzberger/ Löhr, BauGB, § 1 no. 56 in the margin

The building code (BauGB)

From a federal point of view, the most important norm as regards the law governing urban development planning is the new building code (BauGB), which has been in force since January 1998 and which contains numerous amendments due to the Law for the Amendment of the Building Code and the amendment of the law governing town and country planning of 18 August 1997[32].

The particular aim of the BauROG was the consolidation o the federal laws regarding town building in the Building Code, as they had become unclear and confused, and particularly, to a large extent, the integration of the BauGBMaßnG into the Building Code and the abolition of the temporary rules for the States of eastern Germany. A further objective was to find legislative solutions to a number of structural and environmental problems.

The subject matter of the Building Code is mainly the law in relation to construction planning whose scope is extended and which is specified by the rules in the Building Regulations (BauNVO).

The Law on Town and Country Planning (ROG)

In the field of town and country planning law the predominant legal norm is the Law on Town and Country Planning. (ROG). Although the "Bundesverfassungsgericht" in its expertise acknowledged the exclusive authority of the Federal Government to legislate in relation to town and country planning for the state as a whole[33], the Federal Government, in passing the Federal Law on Town and Country Planning (Bundesraumordnungsgesetz) on 8 April 1965 only made use of its general jurisdiction in accordance with Article 75 para.1Nr.4 of the Basic Law.[34]

In the Bundesverfassungsgericht's expertise on building law[35] town and country planning is defined as the comprehensive, supraregional and interdisciplinary organisation of space on the basis of guidelines that have already been stipulated or are yet to be developed.

[31] See Battis/ Krautzberger/ Löhr, BauGB, § 1 no. 6 in the margin
[32] BGBL. 1997,I, 2081*et seq*
[33] BVerfGE 3,407 (423,428)
[34] See Battis/ Krautzberger/ Löhr, BauGB, intro. no. 9 in the margin
[35] BVerfGE 3,407 (425)

This means that the law in relation to town and country planning can be seen as the quintessence of the legal rules which authorise particular state bodies to develop, organise and secure the entire area of the Federal Republic of Germany and its partial areas through comprehensive, supraregional planning and the co-ordination of plans and measures which are of importance for the area.

The Law on Town and Country Planning thus contains both directions for the legislators of the States and directly applicable federal law for the Federal Republic of Germany and also federal law which is directly applicable for the Federal Republic of Germany, while at the same time containing directions for the States.

Within the legal framework set by the Law on Town and Country Planning the States have amplified the spheres of Land planning and regional planning by passing various Land planning laws.[36]

However, the Law on Town and Country Planning (ROG), which takes the shape of Article 2 of the BauROG of 1998 has been thoroughly modernised[37] and now reads as follows:

S. 1 paras. 1-3 ROG contains general planning objectives or programmatic guidelines of a substantial nature. This means that according to s. 1 para.1 sentence 2 ROG, varying requirements as regards an area are to be balanced in order to eliminate conflict on the level of planning in question. At the same time provision must be made for the individual functions of an area and the use to which it is put.

S. 1 para. 4 ROG rules that the organisation of individual areas has to be in line with the organisation of the area as a whole and that, in organising the area as a whole, account must be taken of the needs and circumstances of the individual areas. This "counter-current principle (Gegenstromprinzip)" is a basic principle of organisation and planning based on the rule of law and requires the balancing out of conflicting interests.[38]

Sections 2 - 4 ROG deal with the principles of town and country planning, their definition and their realisation.

As far as town and country planning is concerned, ROG distinguishes between different levels as follows:

Level 1:Town and country planning within the EU and within the larger European context pursuant to s. 18 para. 2 ROG

Level 2: The town and country planning of the Federal Government pursuant to s. 18 para. 1 ROG

Level 3: The town and country planning of the States pursuant to s. 8 ROG

[36] for Bavaria: bayerischen Landesplanungsgesetz in the version of 16.9.1997, GVBl.p.500
[37] See Dolderer, NVwZ 1998,345

Level 4: Town and country planning pursuant to s. 9 ROG

Town and country planning is mainly carried out on the level of the States. This is already indicated by the general provisions in sections 6-17 ROG. Thus the regulations for the area of the Federal Republic contain no provision for the passing of a town and country plan which is applicable for the entire area of the Federal Republic of Germany.

Laws concerning special planning

In contrast to general planning, which regulates the use of an entire area, special planning is only concerned with the planning and construction of a certain building.[39]
The distinction between general and special planning, however, only serves the purpose of conceptual clarification and has no legal effects as the priority given to different types of planning is generally based on s. 38 BauGB.[40]
Typical examples of special planning are the development of a body of water in accordance with s. 31 WHG or the construction of a motorway in accordance with s. 16 *et seq* BFStrG, as the law of the public highway plays a very important role as far as special planning is concerned.
In this area of the law, the Federal Government, taking full advantage of its authority to legislate under Article 74 para.1 no. 22 of the Basic Law, passed the Law on Federal Trunk Roads (BFStrG) on 6 August 1953, which, to a large extent, exhaustively regulates the legal situation with regard to federal trunk roads. The law on trunk roads forms the institutions of the law of the highway. The public highway laws of the States, which then gradually follow, are based on a sample draft which experts in the law of the public highway have drafted in collaboration. This is why today the Federal Government and the States generally have the identical laws in relation to the public highway.[41]

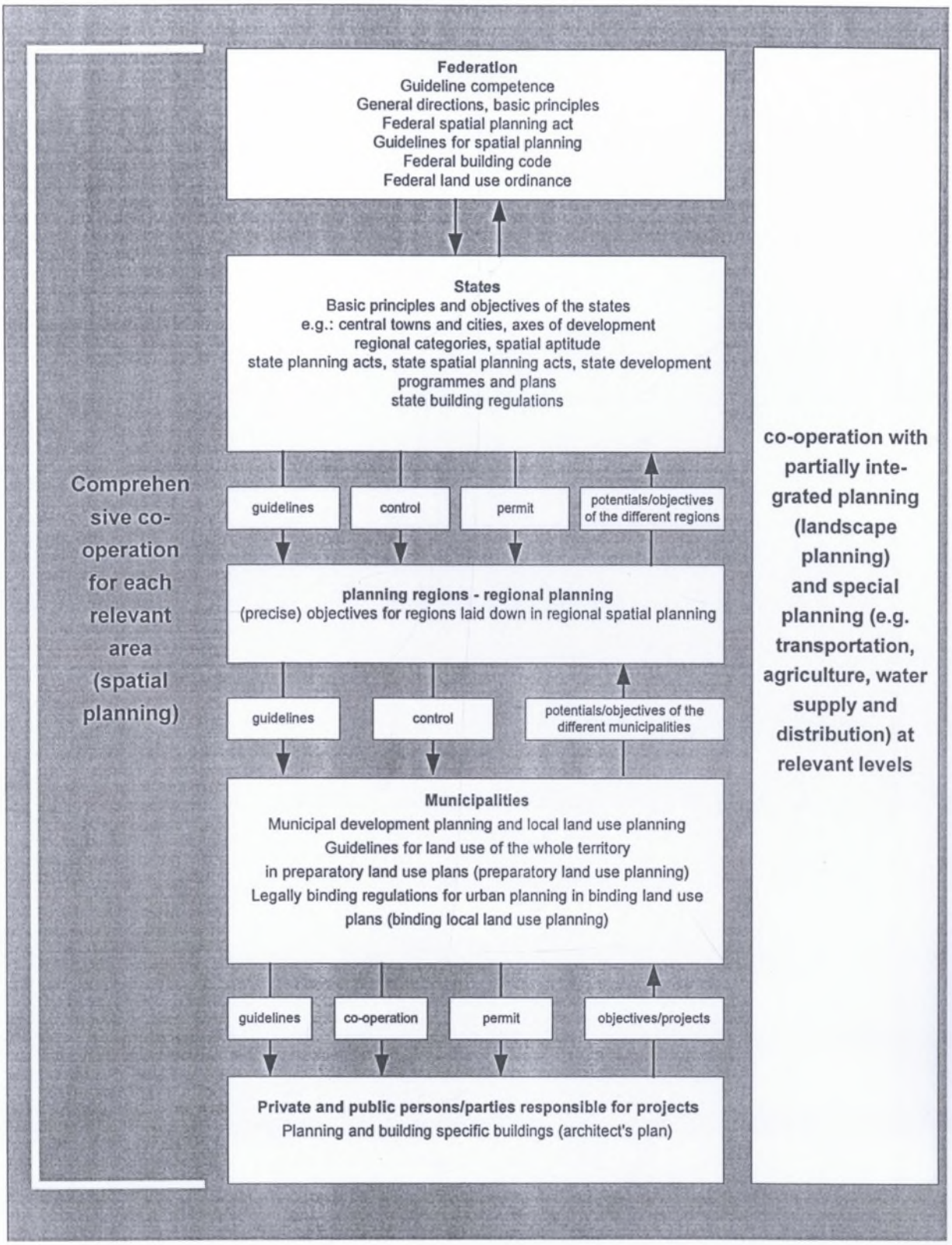
The central subject of spatial planning is the allotment and negotiations of usage, which generally refer to areas.
The system of spatial planning is to be shown in a survey, therefore, in the following. Additionally, the German planning system is to be found in several publications in detail (see BMBAU 1996, ARL 1995, EUROPEAN COMMISSION 1999).

[38] See Cholewa/ Dyong/ von der Heide/ Arenz, ROG, §1 no. 30 in the margin
[39] See Battis/ Krautzberger/ Löhr, BauGB, § 38 no. 1 in the margin
[40] See Battis/ Krautzberger/ Löhr, BauGB, § 38 no. 2 in the margin
[41] Steiner, Bes. VerwR, p.652

As far as statements concerning planning laws refer to special regulations at a state, regional or communal level, it is the Bavarian regulations that will be used here.

2.2.2 Planning administration, plans and programmes

Spatial planning of the Federal Republic of Germany – according to the structure of the administration (see chapter 2.1.1) – is organised within a graded system of competence. The graded system guarantees that the planning of different levels will be coordinated by mutual agreements (principle of countermovements) (see tab. 4).



Tab. 4: Types of plans and hierarchy of spatial planning in Germany,from BUNDESMINISTERIUM FÜR RAUMORDNUNG; BAUWESEN UND STÄDTEBAU, 1996

Federal Government

In the field of spatial planning, the Federal Government has general competence according to article 75 of the German basic law. That means the Federal Government gives a legal framework of substantial and procedural regulations (Federal spatial planning act – ROG). This framework has to be completed with regard to substantial and procedural regulations by the individual states in their own responsibility.

On the federal level, the Federal Ministry of Transportation, Building and Urban Development is the relevant authority. As a result of the federal system, the Federal Government and the State Governments co-ordinate their legal models and conceptions at the ministerial conference of spatial planning (MKRO). The basic principles and objectives of the spatial planning policy that have been agreed upon will be laid down in the Federal spatial planning programme and have also been described recently in the Guidelines for spatial planning (1993), as well as in the Operational framework for spatial planning (1995). Topical and basic questions concerning spatial planning will be passed as a resolution by the MKRO, as for example "Spatial planning measures for the protection and development of undeveloped land functions of 03/09/1996", "Increased planning security for wind energy parks by describing suitable regions in the planning of states and regions of 03/08/1995".

The models and objectives of spatial planning described by the ministerial conference of spatial planning (MKRO) will be realised at the state and regional level of planning.

States

According to § 6 ROG, the states are obliged to pass state planning acts in order to put the Federal spatial planning act into concrete terms. According to § 8 ROG, the states are also obliged to pass spatial planning acts for the whole region of the states, and – as far as necessary – to establish the prerequisites for regional planning. The federal spatial planning act will be put into concrete terms in Bavaria by the Bavarian state planning act (BayLplG).

According to article 13 of the Bavarian state planning act (BayLplG) the main objectives of spatial planning as defined by the spatial planning law will be described by the State development programme (LEP) and by special programmes and plans (art. 15 BayLplG).

State development programme (LEP)

The State development programme lays down the basic principles of future spatial planning and the development of the state territory as the objectives of state spatial planning. The LEP contains the following: subdivision of the country into different regions, regional centres and the basic principles of further development of those centres, supra-regional axes of development, areas which are in need of specific measures for the improvement of living and economic conditions, further planning and measures which are necessary to realise the basic principles of spatial planning. The subjects of the LEP are laid down by the chief state planning authority, the Bavarian state ministry for state development and ecology.

Special programmes and plans

According to article 15 BayLplG, subjects can be laid down in the state development programme. With regard to these subjects, objectives of state spatial planning will be developed and written down in special programmes and plans which are based on the state development programme. The programmes and plans may refer to the complete state territory or to major parts of the state territory. Those special programmes and plans put the basic principles of the LEP into concrete terms and are to be co-ordinated within the framework of the LEP. Examples of special programmes and plans are: framework landscape plans based on the Bavarian nature protection act (BayNatSchG), special programmes and plans for natural areas with special problems and for national parks (LEP I.4.3.2), agrarian framework plans (article 21, paragraph 2 of the law for the promotion of Bavarian agriculture), forest plans (article 6 of the Bavarian forest law (BayWaldG)).

Regions

According to § 9 ROG, the regional plans are to be based on the spatial planning laws for the relevant state area, in Bavaria on the so-called state development programme. The objectives of state spatial planning can often get full validity only by their specification on the regional level. Article 17 BayLplGlays down the subject matter of regional plans. As a result, the regional plans contain the following subjects among others:

- regional centres of the lowest grade (small centres) and guidelines for their development according to LEP,

- the future spatial, settlement and economic structure of the region as well as the functions of the municipalities,
- the development of the region by measures concerning transportation and supply, education and recreation,
- plans and measures to conserve and to shape the landscape and areas which are of major importance with regard to the conservation of the countryside,
- further plans and measures necessary to realise the basic principles and framework objectives.

Bavaria is subdivided into seven administrative districts. Altogether, there are 18 planning regions, to which the regional plans apply. The planning committees of the regional planning associations are responsible for the provision and development of the regional plans. There are representatives of the municipalities belonging to a county, of county-free municipalities and representatives of the counties. The regional plans are being developed by the relevant regional planning authorities or by the regional representatives of the relevant district. The public interest agencies are being informed about the plan and can give their opinion.

If the regional planning associations file an application, the regional plans will be declared to be binding by the relevant superior state planning authority (state/regional planning authority of the district government).

Regional planning has an important role as a mediator between the spatial planning authorities at the federal and state level and the municipalities. So, the regional plans link the framework programmes and plans of the federation and of the states with the planning of the municipalities.

The subjects of the regional plans have an immediate impact on the local land use planning of the municipalities (rule of adaptation). When the municipalities develop their own local land use planning, they have to take into consideration the objectives of the state spatial planning and the spatial development which is planned for their municipality (significance of the central city and the functions related to it). Among others, these are guidelines for the regulation of settlement development, natural reservations and regional green belts. This results in immediate influence on the development of the municipalities with regard to the extent of new commercial and building areas.

On the other hand, regional planning guarantees the consideration of aspects of municipal land use planning. Regional plans contain statements concerning building and commercial areas (supply, identified by binding land use and preparatory land use plans). The municipalities fully take part in the development of the regional plans (counter-current principle).

Municipality

The municipal land use planning is legally based on the Federal building code (BauGB). This means that the management and preparation of municipal building and further land use is within the competence of the municipality. As is to be seen in picture 4 and chapter 2.2.2, local land use planning is within the competence of the municipalities according to § 1, art. 3 BauGB. It says that local land use planning is within the responsibility of the municipalities. They are obliged, however, to take into their consideration the framework conditions of state spatial planning (§1, art. 4 BauGB; see above).

The municipal land use planning is structured into a two-stage system, the preparatory and the binding local land use planning:

Preparatory land use plan:
The preparatory land use plan contains a description of the future (about 15 years) spatial development of the municipality. The preparatory land use plan is not legally relevant for the citizens. It contains the guidelines for the binding local land use planning.

Binding land use plan
Binding land use plans are being developed for small spatial areas of the municipality. They put in concrete terms the planning intentions of the preparatory land use plan. Binding land use plans are legally binding for everybody. The development of new estates and the renewal of built-up land is based on the binding land use plans.

According to the Federal nature protection act, landscape and landscape control plans are to be closely linked to the local land use planning.

Landscape plans:
On the level of the preparatory land use plan, landscape plans describe the objectives of the development of nature and landscape of the whole municipal territory.

Landscape control plans:

Landscape control measures will be described on the level of the binding land use plan, among others, measures of balance of future interference with nature and landscape.

In Bavaria the county-free towns and cities and the counties have got subordinate building authorities which give the permissions for buildings. This means that building permissions will be given by the building department of the county administration, not by the municipality of a county. An exception to this rule are the so-called "Große Kreisstädte" among the municipalities of a county, which have the competence of giving building permissions.

In the municipalities belonging to a county, the permission of preparatory land use plans is given by the "Landratsamt" (county administration). In county-free towns and cities, in "Große Kreisstädte" and in municipalities in the surroundings of big cities it is given by the relevant superior planning authority (regional planning authority at the district government). Binding land use plans can be resolved by county-free towns and cities and by "Große Kreisstädte", as far as they are based on legally binding preparatory land use plans.

There is a survey of the different levels of the planning administration in the following (tab. 5).

Administration level	**Programmes and plans of spatial planning**
Federation	Federal spatial planning programme Operational framework for spatial planning Guidelines for spatial planning Spatial planning reports
State (Bavaria)	State development programme
Districts (7)	-
Planning regions (18)	Regional plans
County	-
Municipality	Preparatory land use plans / landscape plans Binding land use plans / landscape control plans

Tab. 5: levels of the planning administration

2.2.3 Recent trends of development and problems

Situation at the outset

Today about 80 % of the population of the Federal Republic of Germany live in cities and towns (BBR 1999b). This results in the centralisation of the production of goods and of energy and raw material turnover which is typical of highly developed industrialised countries and regions. The consequences of centralisation are intense spatial land use within these urban areas and an effective transportation system within and between the cities. This situation, which already existed in the first half of the 20th century, dramatically developed in the second half of the 20th century.

Built-up areas in the Old States have doubled within the last 40 years, although the population numbers have only risen by about 30 % (BBR 1999b). Still today, more than 80 ha of rural areas are being turned into building land and transportation areas (see chapter 2.1.3). As these figures show, the growth of built-up areas is not solely to be explained by the population growth, but it is a consequence of increasing affluence and, as a result of it, increasing individual spatial needs. So, on the average every German citizen in the Old States was provided with 500 m^2 building land, in 1950 it was just 350 m^2.

Meanwhile, in the Federal Republic of Germany 4.2 mill. ha are land used for building and transportation, which is a share of 11.8 % of the complete federal territory (BBR 1999b). Of these 4.2 mill ha of land, buildings and the areas belonging to them have a share of 52 %, transportation areas have a share of little more than 40 %, recreation areas have a share of 6.4 %. About half of the building land and transportation areas within the Federal Republic of Germany are sealed (2.1 mill ha).

Framework conditions for future development

Today the tendency to use undeveloped land for building and settlement seems to continue. For a positive future development we urgently need measures that stop that trend. As the problems are well known, the legislation has already developed those measures, which often are not consequently applied, however. One of these measures is the Federal building code (BauGB), which provides laws for an economical and preserving use of land. Furthermore, the protection of land has gained importance in the

planning phase as a result of the Federal land protection act (BBodSchG). Chapters 2.2.1, 2.3.1 and 2.3.2 precisely describe those planning measures and their legal basis.

Although there is hope that in the future land protection and further legal measures, which are supplemented by incentives of market economy (the costs of building land), will have more impact, the framework conditions for a policy which aims at an economic use of land are still not favourable. At the moment, there is a process of suburbanisation, which means that the biggest increase in land use is on the outskirts. This process is caused by a decrease of land costs from the city centres to the outskirts. In other words, the price differential with low land costs in rural areas is an incentive to build up undeveloped areas and also results in negative consequences, as for example more traffic and following from that additional use of land for transportation systems (see chapter 2.1.3).

Another obstacle to stopping land use is the fact that the development of settlement is not decisively influenced by public planning. Rather, the present development is a result of private and public decisions with regard to the use of land and to investments, which at best have been more or less channelled by public planning. Individual decisions, which together result in spatial planning, will strongly be influenced by economic and legal (taxation) framework conditions in the future, too (RUNKEL 1999).

For the present and future development, opposite tendencies are to be seen. On the one hand, administrative rationalisation and the acceleration of permission procedures seriously interfere with well considered decisions concerning land use planning, on the other hand, new informal and legal measures will be developed, which are meant to promote a preserving and economical use of land. Some of these measures will shortly be mentioned in the following. The federal building code (BauGB 1998), for example, lays down a sustainable building development by supplementing the guidelines of the local land use planning with the objectives of

- socially acceptable land use
- securing a humane environment
- the protection and development of natural resources

(see chapter 2.1.3). This means that the local land use planning is obliged to support sustainable urban development and, logically, an economical use of land.

Furthermore, the momentary tendency in the planning of settlements shows an increasing importance of EU legislation. The realisation of EU guidelines within the federal legislation already has consequences even up to the level of local land use planning and will lead to restrictions on communal planning competence in many municipalities. An example for this is the European nature protection act (e.g. FFH guidelines), which results in strict use and planning restrictions in many places (see chapter 2.1.3), another example is the draft of a guideline concerning the investigation of ecological consequences of certain plans and programmes.

Another characteristic of the present development of preparatory land use plans is their development from imperative to co-operative planning, and in future this will even gain importance.

The principle of co-operative planning is not restricted to the planning of individual municipalities, but it especially shows a growing necessity of inter-communal co-operation. Today – especially in areas with high population density - inter-communal co-operation is already a reasonable and reliable means for solving problems concerning the cities and the surrounding countryside, which in future has continuously to be developed. A sustainable spatial development especially needs co-operational planning conceptions of the municipalities for optimal - and that means economical – land use. Examples for this are joint commercial areas, regional conceptions for retail trade, the realisation of balancing measures at joint spatial pools, the realisation of a European network system of biotopes etc. Inter-communal co-operation, however, does not guarantee sustainable land use.

Another possibility of inter-communal preparatory land use planning, intended by § 9 ROG art. 6, is the development of a regional preparatory land use plan (see MITSCHANG 1999). Here, however, the municipalities see the risk of land use planning being increasingly within the competence of regional planning if the municipalities cannot find joint solutions for future problems of spatial planning.

2.3 Field of activity: urban areas

2.3.1 Measures for spatial planning

Chapter 2.2.1 describes the situation of planning from a legal point of view. Chapter 2.3.1 especially describes laws, guidelines and paragraphs which aim at sustainable land use.

Federal spatial planning act (ROG 1997)

The federal spatial planning act in a way is the outermost framework for spatial planning (see chapter 2.2.1). This means that the federal spatial planning act lays down responsibilities, guidelines and principles of spatial planning within the Federal Republic of Germany. Though framework acts usually aren't precise, their guidelines still have to be considered by subordinate and special acts, guidelines and decrees, and have to be realised.

As far as a sustainable land use is concerned, there are clear statements in §§ 1 and 2 of ROG:

According to § 1 art. 2 ROG, the guideline of spatial planning is a sustainable spatial development which reconciles the social and economic demands on areas and their ecological functions, which aims at a long-term, extensive and balanced order. The following figures will explain the characteristics of sustainable spatial planning. It is mentioned, for example, that the free development of personality within the community and in responsibility towards future generations is to be guaranteed (figure 1), or else, that long-term options of land use have to be guaranteed (figure 4).

§ 2 ROG defines the basic principles of spatial planning in the sense of guidelines for sustainable spatial development. They say that in the relevant subdivisions, well balanced economic, infra-structural, social, ecological and cultural relations have to be aimed at (figure 1). In the following figures these subjects will be put into precise terms. Figure 2, for example, says that built up areas which have become fallow must be used again before the use of undeveloped land is being considered. Undeveloped areas are to be preserved in their significance concerning natural balance (figure 3), environmental

pollution has to be reduced (figure 5) and natural resources have to be used in an economical way (figure 8).

So, the ROG, which can be regarded as a framework act, as has been mentioned before, offers a sufficient number of specific measures for sustainable land use. Still more specific measures are to be found in the relevant specialised laws. Very significant is the federal building code (BauGB 1998) because of its immediate impact on spatial planning.

Federal building code (BauGB 1998)

According to § 1 BauGB, which defines responsibilities, terms and principles of local land use planning, local land use plans are meant to guarantee sustainable urban development and socially acceptable land use which is in accordance with public welfare, as well as a humane environment (art. 5). Two significant principles of sustainable planning are mentioned here: on the one hand, planning has to consider the social needs of all the social classes, on the other hand, a humane environment is to be preserved for future generations.

The following figures explain social and ecological aspects. According to § 1 art. 5 sent. 2 fig. 2, for example, local land use plans have to consider the housing demands of the population by avoiding unbalanced population structures. So, if local land use plans are being developed, the social and educational needs of the population, especially those of families, of young people, of senior citizens and of the handicapped, have to be taken into consideration (§1 art. 5 fig. 3).

Figure 7 defines the concerns of environmental care. The importance which legislation attaches to the concerns of environmental care is emphasised by the fact that environmental concerns are given a paragraph of their own (§ 1a) in the Federal building code. With reference to spatial planning, article 1 says that land has to be used in a preserving and economical way and that the sealing of land has to be limited to an indispensable extent.

The Federal soil conservation act defines the principles of soil conservation (BbodSchG).

Federal soil conservation act (BBodSchG)

Purpose and basic principles of the act are sustainable conservation and renewal of the functions of soil (§ 1 BBodSchG). The functions of soil in the sense of BbodSchG are being defined in § 2. Besides its natural functions – being the basis of life and the habitat for human beings, animals, vegetation and micro-organisms as well as being an important factor of ecological balance – its function as land for settlement and recreation is being mentioned, too.

Federal nature protection act (BNatSchG)

Whereas the Federal soil protection act is restricted to the subject of soil, the Federal nature protection act (BNatSchG) in a more comprehensive way refers to sustainable conservation of nature and landscape in built-up and undeveloped areas, being the basis of life for human beings and the prerequisite for their recreation in nature and landscape (§ 1 art. 1).

§ 2 art. 1 fig. 3 BNatSchG says that one of the principles of nature protection and the conservation of the countryside is the fact that natural resources – as far as they aren't renewable – have to be used in an economical way. It is necessary to regulate their use in a way that they are sustainable. Fig. 4 explicitly applies this principle of sustainability to the subject of soil.

§ 8a BNatSchG defines the relationship between nature protection regulations and building regulations in a more specific way. If interference with nature and landscape is to be expected as a result of modifications, amendments or reversals of local land use planning, decisions have to be made concerning avoidance, balance and reparation according to the regulations of BauGB (art. 1). According to the principle of sustainablity, the measures have to be taken in a way that, resulting from the local land use planning, there won't be any considerable or sustainable damage of the ecological balance (§ 8 art. 2).

Guideline 92/43/EWG (FFH – Guideline)

The FFH –guideline, too, contains measures for sustainable use of land, and after a slow start it has a growing impact on spatial planning in the Federal Republic. The main ob-

jective of the FFH –guideline is the conservation of biological variety, and by doing so to take into consideration the economic, social, cultural and regional needs. The guideline is meant to make a contribution to the general objective of sustainable development.

As the supplements of the FFH –guideline lay down relatively specific definitions of areas to be preserved, the FFH –guideline – aiming at sustainable development within the territory of the EU - means a restriction of the national planning competence, and so represents a very far-reaching measure with regard to sustainable land use.

2.3.2 Measures

On the municipal level, a number of measures are being taken which regulate land use as well as they support these regulations. Basically, formal and informal measures have to be distinguished.

Formal measures, like the development of preparatory land use plans and of building plans, are an obligation because of legal guidelines (see chapter 2.2.2). They explicitly regulate the use of specific areas or the kind and extent of land use. With regard to space-related aspects of nature protection and to the conservation of the countryside, this is regulated by landscape plans.

The municipalities do also use a great number of informal measures. In the field of urban planning, for example, these are urban development conceptions and housing programmes. They are often developed before the preparatory land use plans are being defined or modified. Urban development conceptions describe the guidelines for the overall development of the cities, which may already contain instructions for the extent and for possible locations of future housing and commercial areas of the relevant city. Housing programmes contain prognoses for the future housing demand of the population, which will be the basis for calculating how much land will be needed for future housing areas and for re-use or for increasing the density of existing built-up areas. These are significant instructions for the municipalities future land use (extent of land use, expected quality of building land, possible locations etc.). What has also to be considered are municipal decisions concerning urban development policies which will have consequences for land use, as for example the establishment of building land models as an active communal building land supply. As a result of this, the municipality is able to take

influence on land costs and to regulate the allotment of building land by considering social aspects (e. g. to prefer the local population).

Further informal instruments for the use of land are part of the ecological aspect, as for example communal ecological quality conceptions, or the application of a voluntary guideline for a communal environmental impact assessment. These measures can give instructions for the conservation of ecological qualities of urban areas, e.g. by defining the minimal extent or the expected extent for the conservation of undeveloped areas. So, areas for future building or re-use can be assessed from an ecological point of view (e. g. climatic, hydrological, scenic qualities) and the results will be significant for the future use of the area. What has also to be mentioned here, for example, are investigations concerning the pollution of land (residual pollution or other harmful effects like noise).

Generally these measures can be distinguished according to their type or according to the kind of the relevant additional measure. Relatively complex, comprehensive kinds of measures are programmes, plans and conceptions. But land registers, charts, files, check lists or data banks as well as geographic information systems can also be helpful to handle the use of land in the municipalities (see chapter 2.3.3).

2.3.3 Filing and saving spatial data

Various spatial data and pieces of information are being registered, used and filed by the municipalities. The quality and kind of data depends on the purpose for which they are used, and they are assigned to the different departments of the municipal administration, depending on their purpose and function. The data of municipalities belonging to a county and without their own administrational and planning sovereignty for certain areas of responsibility are being administered by the county administration (e.g. registering residual pollution, spatial data within the responsibility of the subordinate nature protection authority etc.). Furthermore, spatial data of the municipal territory in parts aren't being filed by the municipal administration but by communal service industries, e.g. by communal economic agencies or by the chambers of industry and commerce (IHK).

Spatial data are to be found in various departments of the municipal administration, as for example the real estate department, economic promotion, urban development or the landscape department .

Real estate

Spatial data concerning the real estate of the municipality basically give information about the way they are defined in the real estate register. Meanwhile, most of the German municipalities have introduced the system of a **mechanical electronic data processing real estate register / property register (ALK/ALB).** There aren't any precise data, however, which show how many cities of the Federal Republic already use a mechanical real estate register or land register. Probably about 1800 municipalities of Bavaria (totally there are 2000 municipalities in Bavaria) have got an ALB, as there are contracts with these municipalities which guarantee that they are regularly provided with the data of the mechanical real estate register. There are about 400 municipalities which already use a mechanical real estate register (ALK). Again this is proved by contracts which say that these municipalities are to be provided with the digital data of the ALK (see LUDWIG 2000). For information in those municipalities which have not yet got a mechanical system, it is necessary to see the property register.

Generally the property register or ALB contains the following information: number and size of the plot, the owner and type of building. The information about the type of building is very general (e.g. residential building with a storage shed) and does not correspond to the usual legal planning and building categories. To get precise information, therefore it is necessary to see the land register plan. Neither is there any information about the present use. Another problem is sometimes the topicality of the data if they have not been registered by the municipality but by the state surveyor's office or by subordinate surveyor's offices. As a result of automation and a data network the municipalities do indeed have access to data, these, however, are not always up to date (e. g. resulting from different data servers which provide different data, or from delay when data are being edited by the surveyor's offices). There is often the problem with ALB data that they don't show the updated addresses of the owners. The municipalities usually get the latest addresses from their residents' registration office.

Economic promotion

The municipalities often have their own departments for economic promotion or there are agencies for economic promotion. If they do actively promote their municipality's economy, e. g. an active settlement policy, then these departments often are provided with various spatial data. The most recent commercial area poll (1997/98) shows that

about 50 % of the cities involved in the poll, at least are provided with a **commercial building land register** for parts of the municipal territory. 34 % are provided with an exhaustive real estate register. This is true especially of metropolitan cities and very often of cities of North/Rhine Westphalia (see BBR 1999c). The data for medium-sized and small cities gained by the poll cannot be regarded as representative for the whole of the Federal Republic, but they give an overall impression. 37.5 % of the municipalities with a population below 20,000 inhabitants are provided with an exhaustive commercial building land register or at least with a real estate register of parts of their territory (18 of 48 municipalities reporting back). 50 % of the municipalities with a population number of 20,000 to 50,000 are provided with a real estate register of that kind (53 of 102 municipalities reporting back) (see BBR 1999c).

Nationwide, however, there is no information regarding the contents and criteria for registering the commercial building land or register. Sometimes these are comprehensive real estate registers or information systems, which consist of several data segments, as for example spatial, building, quarter, business or interest data files (see THIELE 1988). Sometimes, the basis of these data is the mechanical real estate register. Additionally, it is necessary, however, to get information about the momentary use, the guidelines of the preparatory land use plan, the provisions of the binding land use plan, landscape plans, possible residual pollution, infrastructural facilities etc., which may be very time-consuming (see ZIEDT 1998). Medium-sized and small cities, which have a calculable range, often haven't got any data files or registers of their own for their present and future commercial areas. The person who is responsible for this subject is competent as a result of his/her professional experience.

Depending on the structure of the cities (e.g. longstanding industrialised sites), the so-called fallow land registers may be closely linked to the commercial area registers. The rehabilitation or changed use of commercial and industrial fallow land , of conversion areas and of former railroad areas within the cities is a considerable potential for economic development as well as for meeting the needs for building land. How far that possibility can be used in medium-sized and small cities cannot be said, as there are no relevant data available. Especially big municipalities, which have a relatively great number of longstanding industrialised sites (e.g. the Ruhrgebiet) and those which have to cope with a considerable restructuring process (e.g. the New States), will be able to use these possibilities. The building land poll of 1997/98 shows, that the municipalities which took part in the poll have an 86 to 100 % potential for rehabilitation. In the mu-

nicipalities of the poll which have a population number of less than 50,000, the potential for rehabilitation is 60% (up to 20,000 inhabitants) or 73.3 % (20,000 –50,000 inhabitants) (see BBR 1999c). So, there is no necessity of a fallow land register. To find out the potential for rehabilitation, at least in the bigger cities there will have been an approximate registration of fallow land.

Significant characteristics for the registration usually are the extent of the area, its shape, ownership, still existing buildings, the legal building and planning conditions, the use of neighbouring areas, the development of a technical and transportation system, as well as possible residual pollution (see BBR 1997). Fallow land registers may be integrated into commercial area information systems or they may be filed by urban planning departments.

Spatial data of supra-municipal authorities

Spatial data within the framework of a commercial area information system are also saved and filed by the economic promotion departments of the counties. This is a service which enables the municipalities belonging to a county, which don't have any data files of economic building land of their own, to inform interested customers about their commercial areas. So, county-wide they can get a survey of available commercial areas. The data are collected by means of questionnaires within the municipalities and they are updated in certain intervals. An example of registering the relevant criteria is the county of Forchheim. For undeveloped and built-up commercial areas the following criteria for filing these areas are being registered: general information (regarding the municipality, binding land use plan and preparatory land use plan), distances (to the city centre, station, bus stop, major road, motorway), development (works siding, road, water, sewage, electricity, gas), quality of the site (structure, soil, water table), buildings (yes/no), emissions, immissions, information about the local land use planning, about the plot (size, state of building, present use), if possible there is information about buildings, costs, availability, ownership and the competent person of the municipality.

Furthermore, in Bavaria there is a statewide location information system (SISBY). The location information system is being administered and financed by the Bavarian economics ministry and by the chamber of industry and commerce (IHK). The data concerning available commercial areas are being collected within the municipalities and they are updated once a year. Information about any changes are being updated on the internet once a month. The structure of the location information system contains data refer-

ring to the structure of the municipality (basic data), the commercial regions (name, transportation and development, pollution control etc.) and commercial areas (availability, size etc.). As a result of linking selected criteria, there is the possibility of various search modes (see BUCHER 2000). Furthermore, the IHK Bavaria has got a commercial object bank, which statewide offers commercial projects (e.g. offices, factory buildings etc.) for sale.

The supply of building land and building permission

In the city planning departments or building permission departments of the municipalities, spatial data are also being registered and updated. They have got a so-called **building data file** or building district data file. You can get spatial data from the relevant binding land use plan about those areas of the municipality which are registered in the binding land use plan. For each plot of the area of the binding land use plan there are data, as for example building permission inquiries, building permission granted (with information about use and specific conditions etc.). These data are continuously being updated. In medium-sized and small cities these building files usually are still administered without any electronic data processing. There aren't any recent inquiry results about the handling of these data by the municipalities. There are also building files of plots or buildings planned in areas for which there don't exist any binding land use plans (e.g. areas according to § 34 BauGB: within the area of built-up land).

As another measure of spatial data filing, the city planning departments use **vacant lot registers.** Since the 80s, there have been discussions on increasing the density and redeveloping the centres of cities, and as a result of these discussions, vacant lot registers are regarded as a major measure for activating the building potential of built-up land. This strategy is especially significant for house building. But there is also a lack of building land in areas with binding land use plans in the surroundings of the cities, which underlines the necessity of vacant lot registers or building land registers.

There is a great number of different potentials for activating building land, e. g. from the re-use of vacant or insufficiently used buildings or parts of buildings (attics) to new buildings on vacant lots or new buildings behind old ones (see LÜTKE-DALDRUP 1989). The simplest way of organising vacant lot registers is the registration of vacant lots in areas with legal binding land use plans and in municipal areas which are subject to § 34 BauGB.

The results of the building land inquiry of 1997/98 showed that 40 % of 296 cities and municipalities providing information have organised and updated those registers. The bigger the municipality, the more frequently vacant lot registers are being used for the information of the administration and of its political representatives (in municipalities with more than 500,000 inhabitants: 91 %). The smallest number of registers exist in municipalities with up to 20,000 inhabitants (30 %) and with a population of 20,000 to 50,000 inhabitants (36 %). In Germany vacant lot registers do exist rather in the Old States and especially in Western and Southern Germany (see BBR 1999).

Preparatory land use plan

The preparatory land use plan (FNP) regulates the comprehensive spatial co-ordination of the present and future claims of use for the complete territory of the municipality. It has a planning period of about 15 years. If a preparatory land use plan is being organised or updated, various spatial pieces of information will be registered and cartographically recorded. Spatial characteristics which will have to be considered, are the location within the urban area, the development conditions, the basic structure of the urban development of those areas, potential residual pollution, nature reserves (nature and landscape protection areas, water protection areas etc.), ecological qualities, such as significant biotope structures etc. The individual pieces of information are being collected by each special department or they are being inquired from the higher authority. For the FNP those pieces of information are being linked and considered for the recording of the future land use.

When these data are being registered, they are up to date, and generally they won't be updated (exception: see building land data file). One reason – among others – is that medium-sized and small municipalities so far haven't organised their FNPs with the help of electronic data processing systems, as for example a geographic information system (GIS). Electronic data processing is the prerequisite for relatively rationally updating data files. There aren't any exhaustive inquiries about the extent to which GIS-systems have already been introduced so far. In Bavaria, the use of a mechanical real estate register (ALK) gives some relevant information, as the introduction of a GIS-system practically is based on an ALK (see real estate).

Registering residual pollution

Residual pollution or supposed sites of residual pollution can be former landfills (e.g. former waste disposal sites) and former commercial sites. Those may have been used by different trades or industries (e.g. metal-processing plants, petrol stations, former gasworks), or they may be former military areas, railway stations or goods stations. It is to be expected that there is considerable pollution of the soil and of the ground water table. In order to be able to plan ahead for the future and for rehabilitation there are residual pollution registers. For municipalities belonging to a county in Bavaria they are generally being filed by the subordinate waste department of the county. Some of the bigger cities make their own residual pollution inquiries and file the data, e.g. when a new preparatory land use plan is made.

Topical information concerning the extent to which cities and municipalities have their own residual pollution registers and what data they usually contain is not available. Registers with comprehensive data give information about the location, size and condition of the area, about its former use and disused plants, the kind, quantity and nature of substances, about polluting effects, ownership and right of use and of other significant circumstances and legal relationships. Additionally, there is information concerning supposed risks (location within a water reserve, within areas with FNP or binding land use plans, high potential risks) and the state of processing (CITY OF MÜNSTER 1998). Less comprehensive residual pollution registers inform about the location and size, period of former use, supposed substances (e.g. of landfills) or the supposed pollutants, present use, present state and the source of information.

So far, in Bavaria residual pollution registers have been filed by the state department of environmental care. At present, a new data processing programme is being introduced by the county administration which will also be administered there. This programme gives information about:

- former use
- ownership
- authorities responsible
- emissions and their sources
- conditions (vegetation, soil, water balance and resources)
- immissions

- risk potential
- general information (e.g. correspondence)

of residual pollution sites.

Generally, the municipalities have to report residual pollution sites within their territory. According to information given by the county administration of Lauf, only the former landfills are registered in a relatively comprehensive way, whereas former commercial and industrial sites often have not been systematically registered by the municipalities. So, residual pollution of that kind is often being discovered by chance only when there are new building operations.

Compensation area register (compensation and replacement according to the nature protection act)

The new interference regulation according to BauGB for the compensation and replacement of interference with landscape and nature demands for application already on the level of the preparatory land use plan and of the binding land use plan before the building permission is granted. Compensation areas don't have to be on the site of interference, they may be locally separated and may be refinanced. So, there is the necessity for the municipalities to have information about suitable areas for compensation and replacement within their territory. The registration, assessment and updating of theses areas can be done with the help of a so-called compensation register. Bigger cities, especially, have filed relevant registers in an exemplary way and in some places they are already being used (see for example the CITY of MÜNSTER 1998). On the federal level, however, there isn't any information available if and to what extent medium-sized and small cities do also file or plan a register of that kind (for examples see DIFU et al. 1996).

In Bavaria the revision of the interference regulation has been suspended until the end of 2000 within the framework of a temporary arrangement, which means that the relevant efforts of the municipalities are just in their initial stage this year. Generally, data are being registered concerning the location, size and present use, and besides that, there are spatial aspects of nature protection suitability, aspects of real estate (to assess availability) and legal criteria concerning planning.

As far as the municipalities have their own green spaces departments (county-free towns, Große Kreisstädte), they file spatial data for the urban area concerning the quality and care of landscape and nature. Examples to be mentioned here are biotope charts, files and data files for the care and management of certain areas.
Information concerning the preservation of landscape and nature of municipalities belonging to a county is being filed at the subordinate nature preservation department of the county.

Summary

Generally we can say that there are hardly any controlled samplings with regard to the use of individual special registers and information systems of municipal administrations. This is the case at the federal level as well as at the state level. There are data, however, from recent inquiries concerning the use of commercial building land registers by municipalities (see above).

This final result is based on literary research and on telephone inquiries at the relevant institutions which are most likely to give appropriate information. The following institutions were called: Deutsches Institut für Urbanistik (DIFU) Berlin, Bundesamt für Raumordnung und Bauwesen (BBR) Bonn, Deutscher Städte- und Gemeindebund Bonn, Bayerischer Gemeindetag München, Kommunale Geschäftsstelle für Verwaltungsvereinfachung (KGST) Köln (via internet), Archiv für Kommunalwissenschaften (via internet), Forschungsgruppe Stadt + Dorf GmbH Berlin, CIMA Stadtmarketing GmbH München, Institut für ökologische Raumentwicklung (IÖR) Dresden, Institut für Landes- und Stadtentwicklungsforschung (ILS) Dortmund, Bayerisches Staatsministerium für Finanzen München, district governments, the government of Upper Franconia in place of other governments. As a final result we can generally and definitely say that the situation and the handling of registers is very different in the municipalities – even in those of the same size.

So, there is hardly any information concerning the general use of these means and – additionally – there is a considerable lack of information about the way in which spatial data are being registered and what kind of data are being filed by the various municipalities. This definitely confirms the explorative approach of our project researching the situation in medium-sized and small cities.

Therefore, we give an exemplary description of how spatial data are being registered and filed by the two German municipalities taking part in the research project (see tables 1 and 2). As these two cities cannot be representative for all the other cities of that size, the data are not transferable on a scientific basis. But at least they can give an idea of how data are presently administered by these cities and how this is probably done by at least some of the cities of similar size and structure.

The city of Lauf a. d. Pegnitz

Municipality belonging to a county
About 25,000 inhabitants
Medium-sized centre
Situated at the edge of the conurbation Nuremburg / Fürth / Erlangen

Registering and filing spatial data

Real estate
- mechanical data processing real estate register/ land register (ALK/ALB) is just being set up
- building permissions are recorded in the land register plans

Commercial areas
- no special commercial land register, competence and experience of the respon-sible person
- location atlas (county of Nuremberg, rural area): all the commercial areas of the municipalities which are presently available are registered, updated every 2-3 years

Economic promotion

Not any special department for economic promotion; competent authority: county administration

Provision of building land and building permission
- building land model: the city purchases areas from their owners. Allotment of plots to builders by considering social aspects
- data file for building plans: registering building applications, village land, builders-owners, description and building permission
- vacant lots: no register, experience and competence of the responsible person

Preparatory land use plan

inquiring and registering data by special department and by higher authority (conservation areas, residual pollution)

Registering residual pollution

residual pollution land register: responsible authority is the county administration

Compensation area land register

eco account is planned to be established as part of landscape planning; beginning in 2001

The city of Forchheim

Municipality belonging to a county / Große Kreisstadt
About 30,700 inhabitants
Medium-sized centre
Located in the immediate vicinity of the conurbation Nuremburg / Fürth / Erlangen

Registering and filing spatial data

Real estate

an exhaustive mechanical data processing real estate register/ land register (ALK/ALB) is established; updated every six months

Economic promotion

- separate economic promotion agency: registering of data by inquiries
- commercial building land register: structured according to city districts

Fallow land register

no land register; fallow land is registered together with commercial areas for FNP

Provision of building land and building permission

- there is active provision of building land following a resolution of the municipal council; land is being purchased by the municipality (provision of building land policy)
- building land model: since 1991 land is used for building only then if the owners are willing to sell 45 % of the whole area to the city of Forchheim for half of its market value. Allotment of sites to builders by considering social aspects
- Housing model: increasing the density of the population by modification of binding land use plan; to avoid scarcity of council flats, 30 % of the planned floor space have to be council housing
- vacant lot register (established in 1984 by job-creating measures, updated until 1995; latest update 1997)

Preparatory land use plan

Registering various special plans and special experts' opinions before modifying preparatory land use plan

- framework development plan for FNP/LSP
- municipal economic development concept
- special plans regarding:
  - kindergartens
  - playgrounds and playing fields
  - residual pollution
  - building land sites
  - commercial areas

Registering residual pollution
a residual pollution land register was established by the city before the modifi-cation of the FNP

Compensation area land register
is being worked out in co-operation with the real estate department; planned to use urban areas; areas are not yet registered by digital recording

2.3.4 Spatial management approaches

Management means forming, developing and regulating complex systems. Basic aspects of management are the setting of principles and objectives, planning, organisation and control (see RACH 1994). These basic aspects are also prerequisites of spatial management within the framework of different municipal responsibilities. The development of basic principles and objectives is a precondition for a municipality's building land policy for special groups of the population or for commercial clients. Deliberate spatial policy demands a well planned strategy: which steps and measures will be useful and in which order. At first there must be basic information about the type, extent, quality and location of the areas, as well as an assessment of the pieces of information with regard to their usefulness in view of the objectives aimed at. Strategies and measures have to be laid down and realised in order to achieve the objectives. Regular control informs about the present situation and potential success, and it can give hints about possible modification.

Registering and filing relevant spatial data is one of the basic responsibilities. To be able to make definite decisions with regard to certain areas, the latest, most comprehensive and complete data are necessary, which will continuously be updated. As there is usually a great number of data, it is helpful to have electronic data processing systems. Digital land registers and data files or information systems (e.g. geographical information systems – GIS) allow for continuous updates. Furthermore, they have mechanical evaluation and linking systems, which are helpful for regular control and for using well-aimed strategies and measures (e.g. linking selected spatial features for certain purposes, balancing areas).

The analysis of spatial data filing by the municipalities or sometimes by authorities beyond the communal level (see chapter 2.3.3) is the basis of identifying approaches of

spatial management as it is being used so far by cities and municipalities. As there aren't any inquiry results concerning data files and the use of spatial management by municipalities, especially as far as the way of data filing in medium –sized and small cities is concerned, representative statements aren't possible. A substantial part of our knowledge is based on the comprehensive analysis of the two exemplary cities of Lauf and Forchheim in Bavaria.

Generally we can say that there is no integrated spatial management with regard to aspects of sustainability.

A precondition for integrated spatial management is using and processing a great number of spatial data, which is guaranteed by data processing systems. Medium-sized and small municipalities which have a well established geographical information system (GIS) are still a minority. In Bavaria, too, only a small number of municipalities are provided with a geographic information system (see information about the use of a mechanical real estate register being the precondition of GIS, chapter 2.3.3).

So far, approaches for spatial management have only partially been realised. They have been established and used especially with regard to municipal building land and commercial area management.

The measure of activating building land refers to building land potentials within existing development areas with a legal binding land use plan, and partially it refers to vacant lots (e.g. § 34 areas) as well as to potential building sites, for which binding building regulations will be valid if there is a legal contract with the owner. From the viewpoint of management, this strategy contains the formation of principles and objectives by the municipalities (e.g. basic resolution for actively providing building land (building land policy)), the development of a basis of information with regard to available areas, the development and use of specific activating measures (e.g. municipal acquisition of areas, urban development and private contracts) as well as of strategic measures. Reality in the exemplary cities shows that elements of this kind of partial land management are established, but that there is only partial registering, updating and balancing of spatial data and that there is no electronic data processing.

There are land management approaches in another special field, the so-called **commercial building land data files or information systems**. Our inquiries in the two exemplary

cities proved that the establishment and administration of those data files or information systems is not at the communal level of the municipality belonging to a county, but that they are organised at county level or they are within the competence of the IHK. It is an important aspect that the available commercial areas have been data processed and are continuously being updated. There is a comprehensive registration of each area's criteria which can be mechanically linked, and so a targeted search for suitable areas is possible.

For an appropriate application of the new regulation of interference, there are already land management approaches in some German municipalities as far as compensation area management is concerned. Based on a compensation land register with spatial data and information and on a GIS-system, the development within the urban territory concerning balancing and compensation measures is continuously being registered and filed, and there is the possibility of mechanical search for potentially suitable areas.

2.4 Integrated land management as an approach to solving problems

This chapter gives a summarising assessment of topical problems concerning the handling of urban areas (chapter 2.4.1). After that we show possibilities of a more effective handling of future spatial problems (chapter 2.4.2).

2.4.1 Summarising assessment of present and future problems concerning the handling of municipal areas

Basically we can say that today's problems concerning land use will continue into the future. Scarcity of land will still increase in the future, as there won't be more land available and, on the other hand, there is no basic change to be seen as far as an extensive economic, taxation and settlement policy is concerned. This is the reason why there will be even more pressure on ecologically valuable urban areas and on those on the outskirts. There will also be increasing conflicts of interests with regard to the rehabilitation or re-use of urban fallow land. Enforced protection against immissions and neighbourhood protests may very well stop reasonable usage. Additionally, urban planning has to cope with new challenges in the future. So, the urge for compensation of the local land use planning probably results in future land use conflicts and demands for new planning measures. Furthermore, the principles of a sustainable urban development

will increasingly have to be considered in order to avoid the EU making any additional demands. Future problems as well as demands of the planning of state and districts will increase the pressure on the municipalities concerning an inter-communal co-operation with regard to preparatory land use planning.

In spite of these roughly outlined new developments, which also contain specific elements of sustainable urban development, the latter basically has not yet become a model for urban planning. At best, specific – in most cases ecological – aspects are realised without linking the three criteria ecology – economy – social aspects and considering them as the guiding principle of urban planning.

As far as the use of spatial data is concerned, there will be an increasing significance of electronic data processing systems (e.g. geographical information system, GIS) in the future. The linking of data of different categories (e.g. ecological situation, transportation systems, development) allows for improved access to data, which is helpful for sustainable preparatory land use planning. Using GIS, however, does not guarantee the realisation of sustainable urban development.

At present, data are being registered for a certain purpose and then they are filed at the responsible authority. Often the data are not updated in a systematic manner. This is the case, because it is often very difficult to get spatial information from the various authorities and because they aren't up to date in many cases. So, it is often impossible to get quick information, e.g. when there is an application for a preliminary building permission, or to make instant spatial decisions, e.g. the settlement of a commercial company.

2.4.2 Possibilities for effectively handling spatial problems of municipalities

Complex problems demand for complex solutions – this is an often quoted statement. If we apply that statement to spatial problems, it is obvious that there will be no simple and final solution for using municipal land. A complex process with continuously changing measures will be the only suitable way of handling spatial problems. On the one hand there will be a process of finding the right decisions, on the other there will be a process of assertion, which means management in the original meaning of the word as we defined it in chapter one.

As land is a finite resource, land management cannot be any kind of management with any given objectives which may depend on the interests of specific persons. Land management has to consider that its resource - land – is finite and it must have in mind long-term economic, ecological and social perspectives for all the people, which means it must be sustainable. Land management which is oriented towards the principles of sustainability, as outlined in chapter 1, will be a pioneer option for municipalities to find a suitable way of using land at present and in the future.

The effective employment of a land management system demands for two prerequisites: first thing, there have to be definite objectives for the desired development of the municipality. If these objectives are meant to offer a long-term perspective for the municipality and their citizens, they will necessarily have to be oriented towards the principles of sustainability, which have already been outlined. Second, all the information has to be integrated in the land management system that is relevant for spatial decisions. On the other hand, the land management system has to be an integrated part of all the planning decisions concerning municipal territory – so, in the true sense of the word it must be integrated land management.

If sustainable land management is effectively employed, the use of a geographic information system (GIS) is a prerequisite resulting from the great number of criteria in the decision-making process. On the other hand, electronic data processing of spatial data will only be useful if these data are being assessed with regard to their significance. Definite objectives and guidelines based on ethical norms, however, are preconditions for assessing data and information. At that point, a discussion about the objectives of sustainable urban development is helpful in order to reasonably use modern electronic means instead of just registering data.

3. SLOVENIA

3.1 General and institutional framework - conditions

3.1.1 The developement of spatial and city planning in Slovenia

Typical milestones in the development of spatial planning, connected with social conditions, level of profession development, and the legal aspects, i.e. adoption of legal norms, have formed certain agreed upon rules of the game. The post-War period is usually divided to three phases (See Table below): The first period lasted until the adoption of the Law on Regional Spatial Planning in 1967. It is characterized by the centralized, state-planned planning in which the elements of spatial planning, originating in the elements of urban planning, are nonetheless recognizable. This period was based on the concentration of economy in towns, accompanied by intense abandoning of agrarian activities and depopulation of rural areas, and represented the time of institutionalization of spatial planning. Besides the decentralization of administration the policy of consistent regional development, which gradually diminished the differences on regional level due to a polycentric concept of development, was also adopted a quarter of a century ago. The second period represented the time of assimilation for the regional spatial and urban planning with the self-managing social planning. The third period stands for the beginning of new challenges for spatial planning, issued by private property, introduction of a market-economy model and liberalization of economy. In the last few years, the expansion of small enterprises can be witnessed, parallel with the wave of decentralizing privatization. Big economic (industrial) systems undergo gradual transformation, or they have disintegrated to smaller independent enterprises. Parallel with this process an active model of spatial planning has been formed instead of the former protective model which had been previously in force.

A survey of relations in the post-War spatial planning reveals that the so-called "social organism" was also in force in the early period parallel with "urban planning", so that the former made the latter "more refined" and added to it a "regional dimension" as well. In generalized terms, the time until the mid-seventies can also be called the "adaptable" planning with the principal task, resultant from intense dynamics in the general social changes, of doing away with regional discordances (between the landscape-diverse parts, and between the towns and rural areas). The introductory period of spatial

planning was followed by stagnation which was marked with social planning. The system of social planning intensely supported the formation of the system for coordinating developmental objectives and planning tasks; but the latter was very branched and, therefore, too much involved. Besides, an accurate register of landscape conditions was introduced precisely in this period. Both periods were also characterized by more or less radical interventions of the politics into professional decisions, and rather poor "presence" of science in decision making. The third period in the management of area can be called the "prospective" planning, the initial steps of which reach to the beginning of the nineties. This period, which has not ended yet, is characterized with radical changes in the planning approaches, the tasks, the contents and the methods of spatial planning. New interdisciplinary approaches are searched for, updated terminology is used, and even the natural and social sciences are actively engaged. The table below shows the main, typical differences in the approaches in the post-War period.

Tab.6 Time scheme of phase in spatial planning developement in Slovenia, with basic characteristics

Period Basic characteristics	ADAPTATION PLANNING (until mid-70's)	SOCIAL PLANNING (until 1990)	PROSPECTIVE PLANNING (after 1990)
Tasks of spatial planning	To do away with discordances in regional development	to form frameworks for coordination of developmental trends, mainly on municipal level	to choose processes and weight accurately the desired aims
Basic objectives of spatial planning	ACTIVE PLANNING conceptions: progress, urban development, "spatial" dynamics, slogan: "Grasp the future!":	RESTRICTIVE PLANNING: Conceptions: progress, urban development, "spatial" dynamics, slogan: "Grasp the future!"	PROTECTIVE PLANNING: conceptions: healthy, organic, human, "soft", consistent, ecological, balanced, "sustainable development"
Socio-economic aspect of spatial planning	non-marketing "untaxability" of planned interventions, therefore, conditionally prognostic	non-marketing "untaxability" of planned interventions, therefore, conditionally prognostic	conditionally "taxable" scenario-planning follows the prognostic planning
Role of administration in the formation of basic objectives	intervention of administration to protect the centers of risk	Effects of administration are felt in the living conditions of the population	care of administration for the formation of social conditions; "urban management" with an addition of "daily politics"
Planning instruments–the essence of planning	formation of legal system to include public in the spatial planning; experts for "technical and artistic" fields; sector-aimed approach	Professionally competent and socially engaged role of experts–formation of strategies; Concentration on key-problems' solving, formation of instruments (e.g., taxes); planning based on uniform spatial information systems (planning elements, uniform indicators,	

		"GIS", etc); "public private partnership".	
Spatial planning : politics relation	politics approves "correctness" of planning	politics approves "correctness" of planning	judging function of politics
Spatial planning : science relation	"individual" contacts	help of scientific findings	judging function of science

3.1.2 The structure of the state and the administrative structure

State structure

The new constitution of the Republic of Slovenia of 23rd December 1991 designates the Slovenian state as a democratic republic and welfare state under rule of law. The essential basic components for a democratic community such as distribution of the executive, legislative and judiciary powers, compliance with human rights etc. are established through the constitution.
Of predominant importance is the regulation of local autonomous administration; in discussing the state structure the focus is first of all on an understanding of this aspect.

The state structure is founded on the legal constitution and based on the principle of distribution of the executive, legislative and judiciary powers. A parliamentary system was introduced based on this which was especially oriented on the German example as regards government formation and the relationship between government and parliament. Despite the above-mentioned principles there are some elements of the old system remaining in the constitution, especially in the relationship between the legislative and the executive.

The legislative is formed in Slovenia by a **parliament** of 90 members with a mandate of 4 years. Members of parliament are representatives of the people and are not bound by any directives. Until now elections took place within a system of proportional representation. After a referendum and a constitutional court decision this will probably be replaced by the year 2000 by a majority vote with two constituencies. According to the legal constitution the legislative initiative includes the government, each member of parliament and at least 5.000 electorate citizens (people's initiative), as well as the upper house of parliament. According to parliamentary ruling, the legislative procedure is three-phase.

Furthermore there exists in Slovenia the **upper house**, which, however, does not have a comparable function to the German Bundesrat. It is much more an upper chamber representative body, where the 40 members are directly elected for 5 years by representatives of certain unions and bodies (trade unions, chambers of commerce, etc.). The authorisation of the upper chamber is of a counselling nature. It can demand in an extreme case that parliament renews transactions on legislative intentions and must vote with a higher quorum.

The **State President** represents the Republic of Slovenia and is part of the executive. He is elected by direct vote for 5 years and can exercise office for a maximum of two consecutive periods of office. His responsibilities and authorisations are comparable to the German Federal President, thus having more of a representative nature.

Executive power in Slovenia is represented by the **government**, again after the German example. The prime minister is elected in parliament by secret ballot with simple majority. In conclusion the ministers recommended by him must be confirmed by parliament; before this the ministers must come through a hearing of the respective parliamentary committee. Also following the German example is the constructive vote of no-confidence.

The **constitutional court** was already introduced as protector of the constitution in Slovenia through the constitution of 1963, but with the new constitution of 1991 did it attained the authorisation and competence that a constitutional court has in democratic countries. The constitutional court consists of nine judges who, after proposal of the state president are elected by parliament in a secret ballot with simple majority for a period of nine years. They cannot be re-elected.

Administrative structure

Administrative structure, authorisation and competence, also the nomination of public servants is ruled by the administrative law. At present a comprehensive administrative reform is being worked on.

The activity of the **state administration** is subject to the law. The general regulations decreed by it must be in accord with the constitution and the laws, the individual admi-

nistrative acts require concrete authorisation in a law or on the basis of regulations decreed by a law.

The state administration is divided up into individual departments or ministries, which are represented and headed by the minister. The respective minister responsible is the only person with the right on the basis of expressly legal authorisation to issue orders for implementation provided for by law and other administrative acts. The ministries must keep to the political guidelines of the government in their work and make regular reports to it on current concerns.

The administration provides the public services, which lie within the authorisation of the republic by means of direct implementation (state-owned operation), through public business enterprises and public institutions, through franchise issuing, direct capital investments and other measures which enable an effective and rational performance of the republic's public service activities. The administration also exercises the supervision of the law on the legality of the work of public business enterprises and public institutions and specialist supervision on individual acts with which public business enterprises decide on the rights and duties of the citizens and organisations. Some functions of state administration can also be fulfilled through issuing public power of attorney.
The state can also transfer part of the administrative tasks to the organs of the autonomous administration of the community. According to the Slovenian constitution, this is only possible as a rule with their consensus, apart from in urban communities to which the state can transfer by law some of those tasks relating to urban development. The state organs also exercise specialist and legal supervision in the concerns which were transferred by the state to the organs of the local communities.

According to the administrative law the state administration is not decentralised but decentred. Administrative units are organised in individual areas of the state, namely in areas of one or more local communities. Their task is the safeguarding of a rational and effective implementation of the state administration's tasks specified by law. Administrative units are led by a chairman who is nominated and recalled of duties by the government on proposal of the minister responsible for the administration, after previously hearing the opinion of the community councils of the communities for whose area the administrative unit is organised. Administrative units decide in the first instance on administrative concerns deriving from state authority. The ministry responsible for a certain administrative area decides on objections against the notification or other individual

acts which were decreed by the administrative unit in the first instance. Administrative units perform duties also deriving from the authority of the ministries in connection with the specialised and legal supervision of the organs of local authority in concerns deriving from state authority, which have been transferred to the local community.
The government decides in disputes on authorisation between the administrative units.

3.1.3 Autonomous community administrative system

The system of autonomous administration enabled Yugoslavia as the only socialist state to introduce to a considerable extent both the market system of economy as well as a certain autonomy in local communities. This form of autonomy was called the communal system in the communal sector. This structure did not work in practice and even developed into the opposite: on a communal level it was not the communal system which governed in the end, but, as ever, the state governed the communes or autonomous community administration. The idea of the role of the commune as an autonomous organisation shifted to the commune as a state organ in the first instance with universal authority for the fulfilment of all state tasks.
In the area of Slovenia 62 communities or communes existed, which on average included 32.250 inhabitants and covered an area of 326.7 km^2.

It is presumed that approx. 80% of all tasks which the communal organs performed were of a state character. The communities had to transfer local tasks serving the fulfilment and satisfaction of the citizens' needs in the localities, onto so called community associations. 1.200 such community associations were counted in the area of Slovenia. They were established in nearly all major localities and for the most part had to be financed by the contributions of the citizens. The funds for this were raised respectively through a referendum on the community level, but frequently did not suffice even for the most necessary infrastructural measures.

With the constitution from the year 1991 a new **system of autonomous community administration** was introduced which was to follow the models of contemporary European communities. Its differences from this in some significant parts caused a number of difficulties to arise later in constituting local legislation and in building the new system of the autonomous community administration in the Republic of Slovenia. The law on au-

tonomous community administration was decreed on 31st December 1993 and was frequently changed until the present day.

The Slovenian constitution specifies the community as a local autonomous community administration. The area of the community includes one or more localities. The area on which a community is to be established must fulfil the conditions which are specified in the law on local autonomous administration. Above all the following must be provided: an elementary school, access to the appropriate medical and social existential provisions and welfare, provision of possessions necessary for life, communal infrastructure and other essential facilities (post, bank, library, premises for the local community's administrative activities). The law moreover specifies that the community on principle be of at least 5.000 inhabitants, with permitted exceptions (The smallest community has approx. 450 inhabitants).
The constitution rules that the community be established by law after a previous obligatory referendum of the population of the area where the community is to be established. This is valid both for the establishment of new communities as well as for modifications in the community area. The process of community establishment is more closely regulated in the law on the process of community establishment and specification of its areas. In a principally unified community area so called confined sections of the community can be established; these are organised as local or village sections or urban district communities.

The constitution does not prescribe obligation for the establishment of local communities, for instance by administrative districts. Communities decide autonomously on the association into administrative districts and other local autonomous administrative communities on the basis of regulation and performance of local concerns of broader significance.

An administrative district is established, modified or dissolved by law on the basis of the decision of the community councils. A referendum can be carried out on the community council's decision. A community can also vote to withdraw from an administrative district.
With the administrative district statute, the communities specify the local concerns of broader significance which the administrative district performs in its authority, the organs of the administrative district and the kind of financing. The administrative district performs the local tasks of broader significance which relate to the communal, econo-

mic, cultural and social development of the area, to the satisfaction of the inhabitants' common needs and the economy, to the strengthening of local autonomous administration in the communities and to their balanced development. The state can transfer by law certain concerns to the original authority of the administrative district, above all deriving from the sectors of environmental protection and regulation (environmental regulation documentation on the regional and lower levels).

The administrative district is not a broader local autonomous administrative community according to the Slovenian constitution and law, but a form of co-operation of communities. At present no county as yet exist in Slovenia.

In the preparatory phase the administrative districts law's situation is such that it has the task of closing the structural gap between community and state and facilitating the implementation of the establishment of the administrative districts. Such administrative districts could be compared with Germany's normal county.

The community performs the local concerns of public significance (original tasks), which it specifies with the community statutes or which are specified by law, autonomously. The law specifies as tasks amongst other things the administration of the community's financial assets, cultivation of conditions for economic development of the community and performance of the tasks in the sectors of hotels and catering, tourism, and agriculture. Also included are the planning of environmental development, the fulfilment of tasks in the sphere of operations in the environment and the construction of property items such as managing of building lots; creation of conditions for housing construction; within the scope of authorisation the regulation, administration and care for the local public services; establishment and maintenance of communal water and power supplies; construction, maintenance and establishment of local public roads and highways.

Furthermore there is a ruling for the status of the city/town in the law. Through parliamentary decision the status of a city can be attained by a larger urban locality, which can differ from other localities in size, economic structure, population density and historical development. It must contain at least 3.000 inhabitants and demonstrate a certain historical tradition.
The Slovenian constitution furthermore allows that a **town/city** can attain a special status as urban community. According to the law the urban community is a dense and enclosed locality, or several localities which make up a unified environmental organism. It

is linked through an urban environment, featuring the daily migration of the inhabitants. The status of the urban community can only be endowed to a town which has at least 20.000 inhabitants and 15.000 places of work, and is a geographical, economic and cultural centre of the area.
The urban community is established by parliament by law, which also specifies the name and borders of the urban community.

Community organs of government are the community council, the mayor and the supervisory board.
The **community council** is the representative organ of the community, which is elected in accordance with the democratic standards of the community's inhabitants for the period of four years. The community council numbers 7 to 45 members and is the highest organ in decision-making on all concerns within the scope of rights and duties of the community. Above all it fulfils regulating (= normative), election and supervisory functions. As a rule the community council members do not perform their function professionally but in an honorary capacity.

The governing organ of the community is also represented by the **mayor**, who, like the community council, is also elected directly for the period of four years. The mayor is the individual organ whose main task relates to heading the community administration and the representation of the community. The mayor is directly connected to the community council, for he represents, summons and leads the meetings; however, he is not a member and has no right of vote. The mayor proposes the budget to the community council and submits the annual financial statements, prepares the issuing of ordinances and other general acts of the community. He can veto publications, if he considers that the council's resolutions constituted by the community council are unconstitutional or illegal. Should the community council insist on its decision after renewed decision-making, the mayor must provide for the publication of such resolutions, nevertheless he can institute norm control proceedings at the constitutional court.
The principle of non-professional holding of office is also valid for the mayor, however, he can decide himself whether to hold office professionally.

The **supervisory board** is a special community organ, which supervises the community's financial business. It is the highest supervisory organ of public use in the community. The members of the supervisory board are elected by the community council for the

period of office of the members of the community council. They perform their duties in an honorary capacity.

The system of **community financing** in Slovenia is ruled by the law on community financing. The communities are financed through their own resources. Communities, which on account of poorer economic development cannot guarantee to perform all their own duties, have a claim to state support, if they fulfil certain standards specified by law. At present there are only three communities in Slovenia capable of financing themselves.
The assets of the community consist as a rule of: real estate and movable possessions in ownership of the community, money and property. The law recognises a special category of property, namely community property, which represents a form of public property.

The community's revenue is above all revenue from land leases and rents for the building lots and property items which are owned by the community, revenue from capital investments, securities, annuities and other rights, profits of public companies and franchises. The community assets are only one source of community financing.
Other sources are taxes and the community share of the (state) income tax. the third source is the financial equalisation which the state assures the community, the fourth (de facto tapped) source is the level of debt of the communities and the fifth are supplementary means which the state allows individual communities for special purposes.

The law on community financing addresses community duties which belong to the cluster of so called guaranteed use (for example the financing of community organs) and of the sources for guaranteeing this use. The communities are eligible for the following taxes: inheritance and gift tax, gambling profit tax, property and land transaction tax, administration taxation, special taxation for the use of gambling machines off the gambling premises and 35% of income tax which is raised in the community area. For all other tasks the community can also obtain resources from capital gains taxation, compensation for the use of land lots (a Slovenian particularity without correspondence in Germany), local tourist taxation, local rates and taxes, fees, compensation for changes of usage of land lots and forests (Slovenian particularity without correspondence in Germany), compensation and replacement for the degradation of the environment and environmental pollution, administration revenue. The resources with which the community secures the execution of constitutional and legal tasks specify the dimensions of

the resources for financing local concerns of public significance (so called appropriate usage). An appropriate usage is specified per inhabitant through parliament. The community which cannot guarantee appropriate usage from its own resources, can avail of resources for financial balancing from the state budget. Resources for financial balancing can be a maximum of 100 % of the community's estimated revenue.

The communities are permitted to incur debts through issuing securities or taking up credits. Loan contracts are concluded by the mayor on the basis of the budget and the previous agreement of the minister responsible for the finances. Apart from special cases (residential building construction, water supply and distribution, waste water disposal, etc.), the communities can incur debts within a range of 10 % of the community's actual revenue in the year prior to incurring debt, interest and amortisation may not exceed 5 % of the actual revenue in the individual year.

All revenue and expenditure of the community must be contained in the community budget. If the community budget is not concluded in time, the public consumption of the community is financed by the last year's budget. Parliament can terminate the community council and advertise for early elections, if the community council has not passed a community budget in two consecutive years. Parliament can only do this on government commission and even recall the mayor from office, if it determines that the latter has not performed his legal duties. The Auditor-general's office checks the management of the local
autonomous communal administration and communal legal entities. The application of the specified means is supervised by the Ministry of Finance.

Today there are 192 communities existing in Slovenia, a number which will be increased before the next local elections (2002). The Slovenian communities are extremely heterogeneous with regard to size, population numbers, development and demographic composition.

3.1.4 Economic and social situation

The economic and the population structures of Slovenia radically changed in the post-War period. The population increased by a quarter in this time. From the country with about 50% of the agrarian population and only about 16% of the employed active population, it reached as early as the beginning of the eighties, thanks to its dynamic de-

velopment, the level of a medium-developed industrial country with complete employment of the active population and reduced percentage of the agrarian population to one tenth only. At the beginning, the primary sector prevailed in the structure of the active population of Slovenia; then, the secondary sector increased to reach the prevailing percentage, while in the last years, the percentage of both, tertiary and quaternary sectors, prevails. The industrialization resulted not only in the increase in material production and employment rate, but also in far-reaching consequences manifested in the degradation of environment (Plut, 1987), and impairment of dwelling conditions because the preventive measures were lagging behind.
The development of the first post-War years was primarily based on the concentration of economy in towns, which was accompanied by intense abandoning of agrarian activities and depopulation of rural areas. Besides the decentralization of administration, the policy of consistent regional development was also adopted gross two decades ago so that, together with the polycentric concept of development, they gradually reduced the differences on regional level. The polycentric concept of development has a key role in Slovenia. On the one hand, it has not stimulated the "superconcentration" in the towns, and on the other, it helped to preserve the rural areas inhabited (Muši , 1980). Parallel to the decentralized privatization wave of the last years, the expansion of small enterprises has been evident. Large economic (industrial) systems have undergone gradual transformation or disintegrated into smaller independent enterprises, following in their organization a matrix model of a common "management roof".

There were 684.139 apartments in 443.659 buildings in Slovenia at the 1991 Census. Of all these apartments, 652.345 were inhabited and 26.374 were declared as vacation dwellings (accounting for approx. 4% of the housing fund). The average of 2,78 people per apartment lived on 23,5 sq m of the housing area. Single-household apartments prevailed (90%). Four fifts of the households and nine tenths of all the people occupied flats of at least two, or more rooms. According to the statistical data, only 3.057 of all flats (0.5%) were without washing or toilet facilities, or public utility connections. Almost nine tenths of flats had running water, three fifths were connected to remote heating system, and one third to public utility system.

The age structure of the housing fund was as follows: 17 % of the apartments were built before the year 1918, the following 8% between the two wars, 30% in the post-War period until 1970, 25% in the 1971-1980 decade, and the remaining 20% of the apartments were built in the last decade.

In the last three decades, 348.463 apartments were built in Slovenia, or the average dynamics of the discussed period of 10.889 apartments per year. Housing construction was most intensive in the seventies and the eighties, when the physical extent of settlements in suburban zones of bigger towns was practically doubled; it was extremely intense in the mid-eighties, when about 15.000 apartments were built per year on the average. After the climax, the decline began and only 5.918 apartments were built in the year 1991. In the period following the gained independence, housing construction stabilized at about 6.000 apartments per year. It should also be emphasized that dwelling habits of the population, and living conditions were different at that time, and to build a private house was cheaper than to buy an apartment.

Individuals are the principal agents in housing construction in Slovenia, which is by all means related to the building of detached private houses. This type of residence has widely spread in Slovenia from the turn of the seventies onward. A percentage of detached-house construction accounted for 26.6% only in 1960, increased to 30.9% in the year 1970, to 38.6% in 1975, and to 48.8% in the year 1980. This percentage exceeded one half (54%) for the first time in the year 1983, then rapidly increased and reached almost three quarters (74%) in 1989, and four fifths (80%) in 1996.

The housing capacities of detached, single-family houses account for 63% of all the apartments in Slovenia now. Almost all the apartments built outside the towns after the year 1989 were private property. According to rough calculations, about 1.3 million people of Slovenia live in detached, single-family houses, of which 200.000 live in the towns, and over 550.000 in their suburban zones. Detached, single-family houses explicitly prevail in the rural areas.

The use of settling areas primarily depends on the type-structure of residential houses. A great percentage of detached, single-family houses results in large areas used for residential function; nevertheless, great regional differences between the towns also occur. This percentage is the lowest in the two post-War built towns, Nova Gorica and Velenje (18% and 24% respectively). If the above two exceptions are neglected, the percentage of detached, single-family houses is in reverse proportion with the size of urban agglomeration: 28% in Ljubljana and Maribor, 30% in Celje, 31% in the littoral towns, and 37% in Kranj. Slightly less than a half of (detached) single-family houses also occur in the following bigger towns: Škofja Loka, Jesenice, Kamnik, Ptuj, Dom ale,

Murska Sobota and Novo mesto. The multistorey buildings occur in minor percentages only in the towns of less than 10.000 inhabitants.

The great percentage of detached residential houses occupies larger size of the used areas, even by 15-times larger in the cases of Ljubljana, Maribor, Celje, Nova Gorica, Škofja Loka and the littoral towns, than the areas built up with multistorey buildings. In the remaining towns with over 10.000 inhabitants this multiplier ranks between five and ten. In other minor towns, the coefficient is lower. As regards the trends in housing construction, the ratio further increased in the nineties.

A number of apartments per house is also one of the urbanisation level indicators, based on the numbers of apartments and houses. On the average, 6,84 residents live in a residential house in a town, and 3,75 residents in a house in its suburban zone. Differences in residential density are much greater in the towns. In bigger towns (for example, Ljubljana, Maribor and Celje), young, planned-construction towns (Velenje and Nova Gorica), and old industrial towns (Hrastnik, Jesenice, Trbovlje), which are characterized with great percentage of multistorey houses, the density usually exceeds 10 residents per house. On the other hand, small towns such as Bre ice, Gornja Radgona, Mozirje, Laško, Metlika, Logatec, etc., differ but slightly from their rural environments.

Residential areas occupy the greatest percentage of settling areas. In the towns, they account for 2/3 of the built-up areas (except for Novo mesto and Murska Sobota, where they account for 1/2 only) and 80-90% in the suburban zones. The residential function also prevails in the rural areas. In spite of the process of shopping centers' expansion, it is anticipated that the interest in residential function in the towns will increase in the future, and the interest in other types of land use will become stronger in the suburban zones.

The dynamics of housing development of the last two decades in the towns and their direct suburban zones shows quite similar picture, manifested in similar trends of housing construction. Its index ranks between 150 (Celje, and the suburban zones in the Upper Gorenjsko region) and 250 (Velenje), and is by 25% to 50% higher that the population dynamics. The housing construction in the rural areas is also above the average, although the population there declines or stagnates. The main cause of the increase in housing construction and, consequently, in residential areas lies in:

- increase in the average age of the population;
- changes in the socio-economic status of households;
- decline in the average size of households;

- decline in the number of "three-generation" households; these three generations once lived in a single residence;
- decline in the average number of children;
- decline in the number of wedlocks and increase in the number of divorces;
- the fact that children mainly leave their parents' households.

3.2 Environmental planning system

3.2.1 The legal basis

In former Yugoslavia the constitution of the Federal and Republican legislation on social planning regarded environmental planning as a component of so called social planning. The new republic legislation introduced this principle in its entirety in Slovenia, namely in the year 1984, with the second version of the environmental law (environmental regulation law and the law on the regulation of localities and other environmental operations).

The **environmental regulation law** specified the concerns of environmental regulation as a concern of general significance. Environmental regulation was meant to ensure an economic and expedient use of the environment and lead to a development in accord with environmental potential. The law regulated and specified the process of environmental use planning so that the environmental components are also part of the components of the long-term and medium-term planning acts carried out by the republic and the communities. Basic orientation and a global draft of activity development in the environment were specified in the environmental components of the planning acts, taking into account the protection and rational use of land lots and other movables/immovables of general significance (water, minerals, forests, etc.). As regards environmental components in medium-term planning, special specifications were applied to the areas of building lots on which localities are built, expanded or refurbished, or on which other environmental operations are carried out, such as, for instance, transport or power supply networks, infrastructure networks, drinking water supply and distribution networks.

Amongst other things, the law on social planning of the SR Slovenia ceased to be in force with the drawing up of the constitutional changes in the year 1989. To prevent a legal gap in the area of environmental regulation, the law on environmental planning and regulation was temporarily put into force in the year 1990. This law specified that the environmental components of the republic's social planning were to remain in force for the period between 1986 to 1990 until the drawing up of new rulings on environmental regulation. The changes and extensions of the environmental components of the republic's long-term and medium-term social planning was constituted by parliament through decree in a two-phase process. Changes and extensions to the environmental compo-

nents of the long-term and medium-term planning of the communities are prepared and drawn up according to the procedure prescribed for the preparation and drawing-up of the environmental instrumentation acts.

The law on regulation of localities and other environmental operations specifies the regulations of the localities as an urban planning operation of building, expansion and refurbishment of the localities, specifications on conditions for the transfer of the planned property items and areas for development in the environment, also urban supervision of the execution. The law specifies other environmental operations as urban planning of infrastructural property items and areas of development, also of permanent changes in the environment outside the location areas, specification of conditions for the transfer of planned environmental operations, also urban supervision over the execution. Changes in the law in connection with off-the-books construction and motorway construction were enforced in the years between 1993 and 1997.

Environmental regulating of the localities and other environmental operations

The law on environmental regulation and other environmental operations serves the implementation as regards legislation on environmental regulation. Localities and other environmental operations are brought into accord with the solutions and specifications taken from the environmental components of the community's medium-term plan (conditions for the acts of environmental implementation) and with the alignments stemming from the environmental components of the community's medium-term plan (urban and landscape planning).

Construction and expansion of localities, also the construction of infrastructural property items and planning areas, which modify permanently the expedient use of the area, are being planned on the building lots. The lots are determined with the community's medium-term social plan in areas which were specified through the long-term plan for this purpose. Other environmental operations are planned for the lots which were specified by the medium term social plan for these purposes in accordance with the alignments on expedient environmental use in the environmental parts of the long-term plan.

The law on building lots

The law distinguishes between the developed and non-developed building lot. The non-developed lot is a piece of land in the area which is specified through the environmental

plan for the building of property items. The community administers to the public good through the building lots.
The commerce with building lots is free under the conditions which are specified by law. In the case of sale of non-constructed building lots the contract parties must receive confirmation before concluding the purchase contract that no right of pre-emption exists on the building lot according to the law on building lots. The proprietors of the right of pre-emption (community or state) has the right of pre-emption on the non-constructed building plot on which the environmental implementation of construction of the following property items is intended: public infrastructure, health service, social security, education, science, culture, sports and public administration, social and unprofitable housing, premises for civil defence purposes.
Sale with disregard of the right of pre-emption, i.e., without an offer to the proprietor of the right of pre-emption, is null and void.

Public infrastructure includes items and networks which are directly specified for the implementation of public economy services in the sector of communal and water distribution and supply, environmental protection, power supply, transport and communications and connections with the other items and are defined as such by law.
Public infrastructure items also include communal items, where use is specified for all persons under the same circumstances. Amongst theses are roads, markets, playgrounds, car parks, cemeteries, green fields, sports grounds, etc.; items of public infrastructure and land lots on which these are built, constructed public property.
Ownership rights cannot be acquired on constructed public property, so that real estate, which belongs to constructed public property is withdrawn from general legal commerce.

Ownership rights or other resource rights in real estate can be withdrawn or restricted (expropriation) for the public good in return for compensation in kind or financial compensation. Expropriation is permitted when the public good specified by law is not attainable in another way. The public good is proven when the expropriation of the real estate item is necessary for the building of the items of public infrastructure or objects for defence requirements, presuming such construction features in the environmental implementation plan. The resolution can be contested with proceedings in the administration dispute.

The expropriation proceedings is instituted by application of the proprietor of the expropriation right. The court decides on expropriation in an out-of-court dispute (= voluntary jurisdiction). The court conducts oral proceedings in an expropriation dispute. It can only be applied to the estimate worked out by the legal experts. A second appeal against the resolution of the court is authorised.

Function (system) of the administrative organisations and inspection services

The administrative tasks in conjunction with the implementation of the law concerning the planning of small towns and other interventions are to be carried out by the administrative body of the municipality within the framework of transferred responsibility, under the conditions laid down by the ministry. The responsibility for implementation of the statutory provisions and other stipulations from the area of regional planning, planning of small towns and other interventions in the area is allocated to the administrative body of the first instance, which executes all administrative tasks linked to this. Organisational and specialist tasks, which relate to the planning of small towns and other interventions in the region, will be carried out by special administrative organisations. In accordance with the tasks which are specified by law, the administrative organisation organises the preparation of the regional implementation documents. It prepares the location documentation and observes the prescribed agreements, distributes information about the planning of small towns and other interventions in the region, and runs the information system for regional planning.

Other important specialist tasks are executed outside the public administration. This includes, above all, the preparation of the specialist bases for the preparation of the regional implementing documents, as well as other special technical tasks in conjunction with urban planning and other interventions in the area which are executed by organisations and corporations registered for this function.

Legal system for the building industry

In the 1970s, the responsibility for the legal system for the building industry was transferred from the federal government to the level of the republic. In Slovenia, the law governing the construction of buildings dating from 1984 is still in force, which regulates not only construction but also the redevelopment of buildings.

A building permit was granted on application of the investor by the administrative body responsible for building matters (administrative unit). For important buildings (airports, motorways, railways, ports, river ports etc.), the building permit is granted by the Ministry for Regional Planning. The investor has with his application for the granting of a building permit to present the complete documentation: technical documentation, legally binding building permit, all necessary approvals (water, traffic, telecommunication, fire, environmental protection etc.), an extract from the land register, as proof concerning the right of disposal regarding the property, and proof that all financial resources are secured in accordance with special regulations. A building permit is not required when only small construction works are involved, for which there is no compulsion for having a building permit. In such cases, reporting such work to the administrative body of the municipality is sufficient. Construction work may first be started after the investor has received the building permit.

The investment object which has been completed may not be used until a technical inspection has been carried out. This technical inspection is carried out by the body which has issued the building permit. The technical inspection includes, regardless of the nature of the investment object, the inspection of the construction work, the installation, the equipment and other installations. Only when the technical inspection has been successfully carried out will the authorisation for use of the investment object be granted (authorisation for use).

Law governing agricultural property

The use of agricultural property, its protection, dealings and leasing, as well as so-called common pasture is regulated by law governing agricultural property (GIG). Agricultural properties, in the sense of the law governing property, are properties which are specified for agricultural use, except buildings and water properties, as well properties intended for other purposes. All properties which are not categorised as forests, on the basis of law governing forests, are also agricultural properties.
The properties are subdivided according to natural features into 1st and 2nd categories, the properties which are suitable for long-term planting (orchards, vineyards, hop cultivation etc.), as well as properties which are suitable for gardening.

The specification of properties which are suitable for agricultural, building, water uses or other purposes is only possible in the planning documents of the Republic of Slovenia and local municipalities.

The properties belonging to categories I and II may, as an exception, also be earmarked for non-agricultural use, if no other properties which are less suitable for agricultural use, or forests, can be used in the planning documents of the Republic of Slovenia. A similar reallocation can exceptionally be specified in the planning documents of the local community.

Those who change the purpose of the agricultural property or forest on the basis of the prescribed authorisation or other administrative acts, or alter the purpose in contrary to the stipulations in such a way that this property will not be used for an agricultural purpose or that a forest will be cleared, will be obliged to pay compensation as a result of the change in the purpose of the agricultural property or forest. It will be calculated in an administrative procedure by the authority responsible for the granting of the building permit. A party may not receive a building permit and may also not commence construction without a confirmation of the compensation having been paid.

The acquisition of the property right for the agricultural property, forest or farm, with legal transactions between living persons and legal transactions in the event of death, is only possible with the agreement of the administrative unit, following prior agreement with the local authority in which the agricultural property, the forest or farm is located. Legal transactions which are concluded without agreement or confirmation or contrary to these are invalid. Natural or legal persons who intend to purchase an agricultural property, forest or farm, must hand over the offer to the administrative unit, which will put up the offer on the official board. On purchasing the property, farm or forest, unless in the case of forests something else is specified, in contrast, for forests, those having a preferential right can assert this right in the following order: co-owners, lessees, farmers whose property is adjacent to the property to be sold, other farmers whose property is located at an appropriate distance, Republic of Slovenia via the funds for agricultural properties and forests of the Republic of Slovenia, municipalities on which the property is located, agricultural organisations for which the property or the farm is of great importance for carrying out agricultural activities or forestry and which have their location at the appropriate distance.

If none of those having a preferential right asserts this right, the seller can sell the agricultural property to buyers who have accepted his offer in due time and in the manner prescribed in law.

For dealings in all property in the neighbourhood of military property, the Ministry of Defence has, on the basis of law governing defence, a right of examination and a right of consent.

3.2.2 Planning administration, plans and programms

The spatial planning tasks on the state level are focused on the realization of social objectives, or strategic priorities. Moreover, the state administration shall adjust the spatial planning with a higher level, which means, with the European concept of spatial planning. The planning task on the state level is to prepare the basic criteria to be observed on the lower levels as much as possible. Thus, the state planning guidelines shall not comprise restrictions only (although they are necessary, too) but also the warranty to the inhabitants of individual areas that the planning on regional level is prevailingy done for their benefit (developmental strategies on the level of regions). Thus, the spatial plan of the state provides global guidelines which are to be observed by all who take direct or indirect part in any of developmental decisions.

The expert- and administrative offices of the state, the Ministry for Environment and Space in our case, are usually in charge of the methods to be used, counseling, judgement, consistency of regional plans, contents and technical questions of spatial planning, legal bases, and questions of financing. Besides the coordinating role of the state, its function in the spatial planning is also manifested in the cases which extend beyond the regional or local competences, such as: the transport infrastructure and military zones, etc. Ministry for Environment and Space usually forms a consultative body for this purpose, a "Spatial Planning Commission", consisting of the experts from the field of science and professional associations.

The regional spatial plan specifies developmental issues which can also be of local character at first sight; yet, they are of regional importance, especially because of their connections with local communities. This is important in particular because of the smaller sizes of new municipalities and more explicit necessity for cooperation on the regional level. Thus, by observing the state-made guidelines the regional spatial plan becomes

a co-designer of criteria for the preparation of special regional spatial plans and the municipal-, or implementation documents.

The above definitions determine the regional spatial planning as the most important element of spatial planning or management of area. It specifies in detail the objectives of regional development, determined in the spatial plan of the state. Land use and the planning of infrastructural (social, transport, public utility) furnishing comes to the front, and the sectors' planning is coordinated, realized and implemented in the regional spatial planning. The regional spatial planning or its agents perform an "intermediate" function between the state and the local level. The fact that local communities significantly contribute to the regional policy formation is the most important element in the organization of regional spatial planning. Thus, regional spatial plan is an important link between the "superior" programs and plans, and the communal–urban–implementation planning.

An important role in regional spatial planning is undoubtedly assigned to the procedure itself. Coordination is necessary in all the planning phases without exception. Thus, harmonization is granted, between the sectors' and (complex) "spatial" interests, as well as between the local/regional and the state/inter-regional interests.

Together with emphasizing the importance of role, and the level of organization in making the regional spatial plan, the significance of contemporary approaches to coordination of diverse interests should, again, be extra highlighted. Among them, the following are usually discerned: 1) vertical coordination; 2) coordination according to the principle of "counter current" (*Gegenstromprinzip*); and 3) solving the key problems.

Environmental regulation as component of social planning

Urban planning of locations and/or urban planning of other environmental operations includes the preparation and constitution of the environmental implementation acts, ranging over environmental implementation plans (construction plans, regulation plans and so called locality plans) and environmental regulation conditions. Conditions for the transfer of the planned items and planning areas, and also other environmental operations and conditions which relate to their creation and use, are specified in the building permission.

Long-term plans of social development which were drawn up for one or more communities contain the following environmental components:

1. Plan for environmental organisation, which comprehends above all the dependence and development of the localities, transport network, power supply, network for the provision of drinking water and waste water disposal and other major networks;
2. Plan for the expedient use of the environment, which specifies the purpose and range of the area for the individual activity, above all: housing areas, scenic areas, forest areas, mineral areas, areas provisioned for industrial zones, areas for open-air sport, protected areas for water sources and springs, natural and cultural heritage, dangerous and degraded areas needing redevelopment, and areas for other important activities;
3. Protection and improvement of the human environment.

The long-term plan specifies the general orientation for the development of society as well as long-term targets and directions of this development. In this way the long-term plan forms the basis and general direction for the more detailed structuring and unifying solution of tasks in the medium-term plans. The environmental part of the community's medium-term social plan is carried out with the programmes, projects and other implementation acts which the law specified in accordance with the community's plan for society.

Environmental planning

Technical expertise bases and evidence of data in the environment play a major role in the environmental planning. Technical expertise bases, which are to be taken into account as binding in decisions for the environmental regulation, are analyses on options of social development and other research, studies and projects on natural environmental features as well as its development possibilities. Evidence of data on the environment are prepared by the geodesic administrative organs which attend to the environmental units register.

Urban plans on localities and landscape planning take on a special position in the long-term plans of the community.

Particular specifications accompanying the urban planning of localities are:

- Rounded-off environmental and functional units organised according to their urban regulation:
- Sequence of expansion and/or renewal of localities;
- Organisation of environmental planning for civil defence.

Especial specifications accompanying the landscape planning of the area, outside of the regulation area of the localities are:

- Conditions for the conservation and development of the natural values and also the acquired values of the human environment:
- Areas of agricultural land and forest areas with their functions, areas for research and the mining industry and other primary uses:
- Areas for infrastructure;
- Water supply and distribution regulations;
- Organisation of design and protection of the landscape.

Environmental implementation planning of the community's medium-term socail plan especially involves areas which are being constructed, expanded or refurbished during the planning period. This process allows all interested persons the possibility of reviewing the proposed and alternative solutions and submitting comments. The plan design must be publicly accessible for the period of voting, in any case at least 30 days. The interests should be brought into accordance during the preparatory process of the long-term plan. A special procedure for the agreement is provided for the cases where settlement was not possible.

Regional Implementing Document

With the regional implementation document, the decisions taken in the middle-term plan concerning the construction, extension and development of the locations and other interventions in the area will be implemented in more detail, taking account of the orientation of the long-term plan. The regional implementing documents will be prepared on the basis of and taking account of the data for the specialist elements. They will be represented graphically on the topographical ground plans concerning the present condition, which are supplemented with the data from the land register relating to the property. The standard for the plans will be determined with reference to the amount of detail necessary for the draft.

The regional implementing documents are:

- Regional planning regulations
- Regional implementing plans

The regional planning conditions are specified for the municipal areas for which no preparation of regional implementing plans is intended, as well as areas for which the preparation of regional implementing plans is intended, but the plans have not been drawn up in the current planning phase. In the municipal areas for the small towns or individual functionally rounded off areas in the locations, which are regulated by the regional planning regulations, communal interventions, extensions and building over, as well as supplementary building on the property or installation, which are allowed for the maintenance of the existing building structure or for providing accommodation and work for the inhabitants of this area, as well as also construction which represents the completion of the existing building structures, are permitted. In the case of the regional planning regulations, the urban, design and other regulations governing intervention in the area, as well as measures for the preservation and development of the human environment, are specified, in particular:

- standards and regulations for the construction or redevelopment of buildings and installations in relation to their location, size and arrangement;
- standards and regulations for the implementation of other interventions which would permanently change the space;
- standards for regulation of the building sites;
- standards and regulations for the municipal planning of the building sites;
- standards and regulations for the preservation and development of the natural environment and the value of the human environment acquired through work

The regional planning regulations are the basis for the preparation of the **location documentation** for the individual properties or another intervention in the area of the region which will be regulated. The regional planning regulations cover 95% of all regions, and 5% will be regulated by the regional implementing plans.

Regional implementing plans

By means of the regional implementing plans, those areas which are regulated by the middle-term community plan for the construction, extension and redevelopment of the small towns, as well as for the implementation of other interventions in the area, are regulated.

Regional implementing plans are:

- development plans which are necessary for the construction of new small towns or for the individual areas within small towns, as well as for the tourist and industrial complexes outside the small towns;
- plans for the expansion or redevelopment of small towns, for the planning of grass-covered open areas and for other interventions in the area not related to building;
- location plans which are requested for the individual infrastructure buildings and installations;

With the regional implementing plans, the solutions regarding the planning of small towns and other interventions in the area, which have already been passed during planning by the municipal authority or the state, are processed in more detail. Regional implementing plans are also the basis for the division of properties into plots and the direct basis for the granting of building permits.

Preparation and drawing up of the regional implementing documents

The municipal authority is responsible for the preparation and drawing up of all regional implementing documents. As a rule, different solutions are prepared for the building and planning plans, which are commissioned by making use of public advertisements. Regarding the selection of a solution, which serve as the basis for the preparation of the regional implementing plan, the municipal council makes the decision. The passing of the regional planning document is implemented according to a special procedure:
The draft of the regional implementing document is, in the first place, dealt with by the municipal council and subsequently displayed for a period of one month. The draft is displayed, at the same time, at a number of locations: at the location of the municipal authority and at all relevant local communities and, likewise, at those companies having an interest in the proceedings. During the public displaying of the document, the public negotiations are implemented in such a way that the greatest influence of all affected parties or other interested persons can be guaranteed in relation to the final contents of this document. Following public display of the document, the municipal council deals

with the comments and suggestions and forms its view in relation to these. The draft is then supplemented with the opinions expressed during the public display of the draft and brought into harmony with these. The draft which has been supplemented in this way is passed on the order of the municipal council. The regional planning documents are valid for a term of ten years and can be extended for a further period of five years. Any changes or supplements during the period of their validity are implemented by the same procedure as that used during their passing.

Regional implementing plans in the case of interventions in areas which are important for the development of the state are passed by the state government, by decree. The programme for such regional implementing plans are drawn up in accord with the stipulations of the middle-term community plans by the state government, with the collaboration of the relevant municipalities, at least one month before the final decision of the government has been made by decree.

In the case of the plan for the building sites, which constitute a component of the regional implementation plan, the building sites are regulated for the construction of buildings and other interventions in the area. The building plot is an object on which a building or an installation (building site) is standing or is planned and the building site which is necessary fir its normal use (functional piece of land). The division of the building site is implemented in the region on the basis of the plan for the building plots from the regional implementing plan which has been passed or the plan of the building plots from the location documentation, on which basis the building permit was granted.

Each investor requires a building permit for the construction of buildings and installations. The building permit is also needed for all interventions in the region which will change the use, living or working conditions on a long-term basis, the equilibrium in nature, or the characteristics of the landscape. The building permit is, in accord with its character, a concrete administrative act which is issued by the administrative body responsible for the region. In terms of content, it is dependent upon the regional intervention documents. In those cases in which reference is to a building or other intervention in an area and which concerns several municipalities or the area of the whole republic, as well as in dangerous (with potential effects on the security or health of a majority of people) and ecologically sensitive cases, the Ministry for Regional Planning holds responsibility for the granting of a building permit.

In specific cases foreseen in the law, a building permit is not necessary. The municipal council can stipulate that a building permit is not necessary for the construction of auxiliary buildings. With this stipulation, it specifies the type, purpose, the largest size and the type of construction of these buildings. Work for which a building permit is not required must be reported to the administrative body of the municipality holding authority, before commencement of the work.

In the application for a building permit, the investor is required to list the basic data concerning the purpose and capacity of the intended building, the installation or the other intervention in the region, and to provide evidence that he has the substantive right to build on a particular property, or to execute another intervention in the area. The procedure for granting the building permit is accelerated. In areas which are regulated by the regional implementing plan, the building permit is granted directly on the basis of such plans, taking into account other statutory provisions and in accordance with the GWV (Gesetz über das Verwaltungsverfahen: English, law governing administrative procedures). In areas which are regulated by the regional implementing regulations, the investor must further supplement his application with the special location documentation. In the location documentation, the functions, location and equipment for the building, or one of the other regional interventions, must be specified on the basis of the regulations from the regional implementing regulations, and likewise also the intended municipal connections and other accompanying connections, as well as the agreement of the bodies, organisations and municipalities holding authority, as laid down in law.

For granting of a building permit, other bodies, organisations and municipalities participate, in addition to the administrative body which is responsible for granting the building permit which must, in accordance with the law, grant its approval. This agreement must be granted within a month, otherwise according to the law agreement is assumed.

The building permit includes all data from the regional implementing plan or the location documentation and the urban, architectural documentation, as well as planning and other conditions which must be fulfilled in the case of intended building and other interventions in the region. Further, the building permit includes data about the relevant building plot.

In the building permit, the regulations for the planning of the environment of the building, the conditions for the planning of the building site and other conditions linked to

the intended intervention in the area (use of fertile land, felling of trees etc.) are stipulated. A component of the building permit are the extracts from the graphical part of the regional implementation plan or the location documentation.

The building permit is granted for a specified period of time. It loses its validity if, in one year following the legal force of the building permit, the application for issuing of the building permit has not been made or this application was rejected with legal validity or the building permit has, in accordance with the law, lost its validity. The building permit can be extended, on the request by the party affected, by a period of one year; however, maximally for two years.

Tab.7: hierarchy of the documents in the area of planning of the region, small towns and building

General (abstract) Documents with a legal character	Long-term plan Components of the long-term plan
	Middle- term plan Components of teh middle-term plan

Regional implementation document			
Regional planning regulations	**Regional implementation plan**		
	Building plan	Planning plan	Location document

Concrete administrative act (permits)	Buildung permit
	Building permit
	Authorisation of use

3.2.3 Recent trends of developement and problems

A concept of spatial planning originates from the times of the former, disintegrated Yugoslavia. The "long-" and "medium-term" (social) plans are still in effect on the state- and municipal levels; they are amended and supplemented according to the circumstances.
A decision on the formation of spatial planning falls within the competence of the state. The spatial planning strongly depends on the legal aspects of spatial planing, so that all the interventions into the space can only be realized on the basis of legal regulations. Thus, two preconditions must be fulfilled: a) a decree passed "to start" the planning procedure, with which the owners of the "planning procedure" must be acquainted in particular, and b) the rules passed and agreements reached between the institutions devising the spatial plan. Moreover, it is of utmost importance to be acquainted with the conditions and the rules of spatial planning because the spatial decisions have direct impacts on numerous normative decisions which, seemingly, do not fall within the competence of the Ministry for Environment and Space only, because they practically deal with all the spheres of social life.

The Law on Local Self-Government, adopted in 1993 (Off. Gaz. RS 72/93), reintroduced the municipality as a "basic social, by nature formed community of inhabitants on a certain territory". There are 192 new municipalities on the territory of Slovenia now, instead of the former 62, which means that the planning on regional level is topical again, in spite of defficient contemporary legal basis. Municipalities are the mediators of governmental decisions, and concurrently, they also represent protection against the centralistic making of decisions. However, it is very hard for small and economically weak municipalities to oppose such decisions; therefore, the idea to form the regions is very topical, because the latter would also stand for a firm support to the polycentric concept of spatial development which has already been a basic orientation of the regional developmental policy of Slovenia quite awhile.

3.3 Field of activity: urban areas

3.3.1 Measures for spatial planning

Four "system" laws related to spatial planning were adopted in Slovenia in the year 1984 (their amendments followed a few years later): The Law on Management of Area (Official Gazzette of SRS 18/1984, 15/89), The Law on Management of Settlements and Other Interventions into Space (Off. Gaz. SRS 18/84, 29/86, Off. Gaz. RS 26/90, 18/93, 47/93, 71/93), the Law on Building Lands (Off. Gaz SRS 18/84), and the Law on Edifice Construction (Off. Gaz SRS, 34/84). They determined the role and significance of spatial planning within a uniform system of social planning. The spatial aspect was manifested through spatial components of the long-term social plans, that is, in the urban plans of settlements (building up, revitalization and building of settlements and infrastructure), through regions determined according to landscape units, and through spatial components of medium-term social plans and their implementation documents referring to area management. Implementation of these plans was conditioned with the management of building lands, and the location-, building- and use permits. Thus, all the municipalities in Slovenia were to prepare the spatial components of the long- and medium-term social plans, by using the uniform methods (Decree on Compulsory Elements of Uniform Methods to Be Used in Social Planning, Off. Gaz. SRS 46/85) and the contents' plan (Instructions about the Contents and Methods to Be Used in the Making of Expert Bases and Spatial Components of Planning Acts in Municipalities, Off. Gaz. SRS 20/85, Instructions about the Contentes of Special Expert Bases and the Contents of Implementation Documents Referring to Space, Off. Gaz. SRS 14/85).

By introduction market economy and private enterprising, democratization of political life and local self-administration, which are declared by the new Slovene Constitution (Off. Gaz RS, 33/91), Slovenia had to undergo numerous institutional, organizational and system-related radical and long-term changes; the process has not been completed yet. In the field of spatial planning, Slovenia adopted the Law on Planning and Management of Area in the Period of Transition (Off. Gaz. 48/90), which did away with the social planning system. Due to numerous changes in the field of housing- and infrastructural facilities' construction, and due to entirely operational reasons, Slovenia adopted numerous amendments to the Law on Management of Settlements and Other Interventions in Space (Off. Gaz. RS 18/93, 47/93, 71/93), of which the most important is the Law on Environmental Protection (Off. Gaz. 32/93).

3.3.2 Measures

The spatial, socio-economic, material and time dimensions are taken into account when the instruments are formed, by means of which the following spheres can be determined:

- functional position of region in a broader area, regional network (towns as development generators), accessibility, population mobility, etc;
- furnishing of region, its main function, its parts integrated into a uniform communal plan;
- preservation of nature and cultural heritage; protection and improvement of the quality of environment;
- socioeconomic structure of the population and assessments of its further development;
- land use in relation to diversity in settling structure.

The agents (addressees) of spatial plan are: on the one hand, the institutions ensuring efficient (spatial) connectedness of region and providing for the implementation of decisions determined in the spatial plan, such as the municipalities and administrative units (districts), and on the other, the general and special professional associations in charge of spatial and regional development. Namely, the regional spatial plan serves as the orientation document to all the social groups, investors and citizens in their strivings for the balanced (sustainable) spatial and settling development. Although the space-related decisions of spatial plan determine the future relations in land use, they lack direct legal consequences as regards the property- and other relations. The efficiency of plan depends on the long-term decisions which are supported also by means of qualitative, above all legal regulations related to spatial plan. Therefore, it is important that a spectrum of agents (addressees) in the spatial planning is wide, so that their consensual agreements grant the realization of the plan. The law hierarchy is required for the implementation of spatial plan: adjustment decrees (e.g. bylaws on the executive local-level urban planning), legally determined protection of (natural and cultural) values on the state- and local levels, and numerous sector's acts and decrees. The main instruments of spatial planning are incorporated in numerous "accompanying" (stimulative or restrictive) regulations of, seemingly, "non-spatial" nature.
The main task of spatial planning lies in the planning process at which the coordination between diverse sector's regulations is the most important. Because of the character of the spatial plan, these regulations are monitored by the vigilant eyes of the public. The

contents of sector's regulations are very important for the spatial plan implementation and realization of its aims, and should allow the adjustments required for the minimum agreement which must be reached for the formation and fulfillment of sector's and common tasks.

Of the instruments of spatial planning the procedure itself has an important role, too. With it, a formal basis is made for the validity and implementation of the plan within the specified period (lasting four to ten years, as a rule).

In pondering the use of instruments and material contents of most of the sector's regulations a question about "their message value" is rised, which is to be taken into account in the regional spatial planning. In Slovenia, evaluations of "coordinability" of sector's documents will have to be made and the instruments specifying the way how to reach the basic consensus determined. The instruments and contents, with which the regional and spatial development of regions will be regulated, are important; the following in particular:

- determination of areas' functions, such as: settlements' hierarchy, regional development centers for production, residing and recreation, etc.;
- determination of developmental areas (axes) or central settlements, and areas intended for residing functions, in relation with prognoses (projection variants) of population development;
- determination of priority areas/locations for the activities of general interest, such as: power plants, (special) waste dumps, road and railway infrastructures, telecommunication and other infrastructures, private projects of regional interest, etc.;
- determination of conditions for, and restrictions on building residential villages (districts), functional determination of green (recreation) areas, etc.;
- determination of (absolute and/or relative) priority areas for agricultural use and forestry, water areas, etc., as the areas not to be built up;
- determination of priority tasks for the (medium-term) realization of qualitative aims from the regional spatial plan such as, for example, revitalization of specified areas in accordance with environmental protection, etc.

3.3.3 Filing and saving spatial data

According to the „system"laws of spatial planning - the law on Management of Areas (official Gazette of SRS 18/1984,15/89), the law on Management of Settlements and other Interventions into space (off. Gaz. SRS 18/84, 29/86, Off. Gaz. SRS 26/90, 18/93, 47/93, 71/93), the law on Building Lands (off. Gaz. SRS 18/84) and the law on Edifice Construction (off. Gaz. SRS 34/84) – there were defined spatial information systems (planning elements, homogenous characteristics, GIS,..). These are centralised for the whole country, Responsible for thes informtaion systems are:

(1) the Statistic office R Slovenia
(2) Survey office RS and
(3) GeoInformation Centre with the Department of Spatial planning and environment

The task of **the Survey office R Slovenia** is to provide official Data from it´s data bases. The data with regard to the second part of the project SUDMA are for example: Register of building, Register of settlement units, Register of spatial units, Register of living units. The most important task is the agree over the space units, lots ub katastral municipalities.

The task of the **Statistic office R Slovenia** is for example to provide the filing and saving of environmental data of each town in Slovenia.

GeoInformation Centre has been founded by government in 1991 with the following tasks:
Regulation and coordination of GI policy (at national level). User services: Metadata management, remote access to metadata catalogue, data mediation/provision, data provision through a distibuted data warehouse system, transaction accounting, on-line GIS, discussion forums, e.g. The SMA provides official data from it´s databases and geodetic products from the fields of the basic surveying systems, records of real estate, the state boundary, official division of land and topographical and cartographic systems.

Various spatial data and pieces of information are being registered, used and filed by the municipalities. The quality and kind of data depends on the purpose for which they are used, and they are assigned to the different departments of the municipal administration, depending on their purpose and function. The data of municipalities belonging to a

county and without their own administrational and planning sovereignty for certain areas of responsibility are being administered by the county administration (e.g. registering residual pollution, spatial data within the responsibility of the subordinate nature protection authority etc.). Furthermore, spatial data of the municipal territory in parts aren't being filed by the municipal administration but by communal service industries, e.g. by communal economic agencies.

The municipalities often have their own departments for economic promotion or there are agencies for economic promotion. If they do actively promote their municipality's economy, e. g. an active settlement policy, then these departments often are provided with various spatial data.

In the city planning department the filing and saving of data for supply of building land, building permssion and preparatory land use planning is in Slovenia comparable to german cities.

At this point is represented exemplary the digital database of the long-term plan of the city of Novo mesto:
Digital form of the long-term plan includes the following data groups: predetermined landscape use, traffic infrastructure, telecommunication, infrastructure, energy infrastructure, public utilities infrastructure, restricted and protected areas, fixing boundaries and areas of maintenance purpose of production, computer aided elaboration of urban plan, documentation of the commune usage, elaboration of maps illustrating long-term plans of the commune of Novo mesto, various landscape analyses, e.g.

3.3.4 Spatial management approaches

In the present, the socio-cultural and ecological dimensions of regional development are ever more important. Much was written about the endogenous, consistent, or sustainable regional development in the past few years. It is one of important, possibly also "fashionable" terms, and also a topic of numerous discussions about the role of regional factors. It is often used as "development from inside" for diverse, spatially rounded off spatial units, which are either exposed to ecological hazards, or endangered in some other way by diverse social, especially the structural problems.
Of diverse points of departure forming a basis of the paradigm of endogenous regional development, three at least are important: The contents concentrated on the study of

regional sources is the first. The second important element of regional policy proceeds from the spatial selectivity of urban development effects and settlements' hierarchy. The third one relates to the idea of consistent, polycentrically devised regional development. Besides, the great changes in the world economic processes radically reduced the efficiency of traditional instruments of regional policy. The impacts of international structural changes and regional crisis on the trade cycle of national economies have become so important that the influence of traditional measures of regional policy declined, primarily beacuse of the innovative, information-society oriented economy which demands mobilization of the capital-aimed strategies. Anyway, the means are usually channelled into the areas with dynamic development. Therefore, the regional system models (regional resources) of balanced (sustainable) development are based on the study of the following clusters:

- **Natural resources:**

studying physico-geographical dynamics, physico-geographical and landscape diversity and interactions between the individual elements of natural environment; geographical information systems (monitoring, environment evaluation by means of monitoring systems); causes for and results of pollution; socioeconomic and ecological processes of pollution in the (A) valleys, (B) mountains, and (C) karstic world; importance for life, economy, evaluation of *human–society : environment–landscape* relations (interactions between a man and natural environment); effects of diverse economic and social development models on land use in the urbanized and rural environments (sample sustainability-scenario study), etc.

- **Interactions between economic integrations and regional development:**

investigations into sociogeographic factors, investigation into the value system in relation to the conflicts in land use (identification of "problem fields"), making "dynamic theory" of regional effects in diverse landscape units (*densité relationelle*), comparative studies about industrialization and urbanisation processes, investigations into the development of urban systems, interactions between urban centers and their suburban zones (problems of urbanized and rural concentration areas), social changes in living conditions (quality of life and indicators of urban life), and interactions of urbanisation processes, labour market and population mobility, development of settling and communication systems as the factors of regional development (innovative diffusion), effects of economy internationalization (spatial effects of the competition in economy of towns in the light of European competition), and increasing mobility of capital on the spatial and populati-

on structures and regional dynamics (modernization, specialization, de-industrialization, re-industrialization, increase in tertiary activities, etc.);

• **multi-fuctional characteristic of space:**

investigation into possible conceptions of how to ensure the ecological function of region, ensuring stability in production, unobstructed flow of raw materials, quantification of interactions between the use and the state of natural resources, determining the values of natural resources and landscape for their possible users, economico-geographical quantifications, specifying the limit values, changes in the use of landscape, evaluating the landscape-forming elements and their role in specific landscape types, etc.;

• **Sustainable – balanced – spatial (regional) development:**

model(s) of "new spatial organization" of the region, which will be based on the coexistence of the *mode of living : economico-geographical conditions : environment,* adapting the findings of natural sciences to the field of human sciences ("risk" analyses, establishing degrees of risk and acceptability for the population, projections, measures), "erasing" differences between "economy" and "ecology", identity of regions, image, regional potentials, regional policy/ies, etc.

Determination, cognizance and significance of regional resources as developmental potentials with the environmental, i.e. restrictive possibility of use (unrenewable and/or renewable natural resources, quality of environment, population potentials, socio-economic, infrastructural and other potentials) are considered the contents-related key elements of further considerations about the contents of regional spatial planning. On their determination depends the optimum use of space which is based on impartial distribution of goods, and the support to, or restriction of the use of (un)renewable regional resources. The making of criteria and difficult transformation of the emerging concept of regional spatial planning into the useful procedures and management strategies demand comprehensive devising of methods and contents-related determination of the problems, or said in other words, realization of the contents in the economic, spatial-ecological, socio-demographical, as well as cultural and political spheres. However, a question is rised on this point, about the (non)universality of individual socio-economic developmental indicators and the indicators of importance and use of individual regional resources, especially from the aspect of comparisons of geographically and developmentally quite diverse areas.

3.4 Integrated land management as an approach to solving problems

Changes in social environment were followed by the adjustment of spatial planning as well. Namely, individual cases of global changes in the society also have impacts on the character, methods, and position of spatial planning. The latter is subject to constant transformation and manifests its complex-approach ability to manage these impacts. Some essential and typical developmental motive powers directly affect relations in the management of area. The entire post-War period was divided to three phases which were also important for the development of regional spatial planning.

The first period lasted until the adoption of the Law on Regional Spatial Planning (1967). It was characterized by the centralized state-planned planning in which the elements of spatial planning, proceeding from the elements of urban planning, were already recognizable. It was also the time of institutionalization of regional spatial planning. The second period represented the time of assimilation of regional, spatial and urban planning with the self-managing social planning. The third period stands for new challenges for the regional spatial planning, issued by the introduction of a market-economy model.

For the efficient implementation of the spatial planning process some indispensable preconditions must be fulfilled:

→ precisely determined planning procedure;
→ established possibilities for "cooperation" on equal terms of all the agents in the planning procedure;
→ ensured planning coordination and coordinated sectors' (regional) interests in the planning;
→ established firm conditions (warranty) for the realization (implementation) of the plan;
→ established conditions for the consistency of regional spatial planning with sectors' plans and (above all) economy planning;

Thus, to prepare the spatial planning system represents an intermediate stage between regional and local planning, which is well known in the world, but still depends on numerous unresolved questions in Slovenia, of which the following should be exposed:

→ determination of regions with their economic power, autonomy level and state-administration role (transfer of state-administration functions on regions and the level of autonomy are the most important);

→ status of the present municipalities and their integration (in the field of area management) on the level of regions;

→ legal-, administrative-, economic- and social relations between the state-, regional- and local spatial planning;

→ organizational-, control-, and executive relations between the state-, regional- and local spatial plans or implementation documents.

The regional planning process is a constant dialogue between the agents in the spatial planning and the users of the space. Proper conditions must be established, so that consensual and acceptable solving of long-term spatial problems can be obtained. The regional planning process is not just a single event; it is a continuous process with the constant care for and control over the implementation of planning obligations.

4. Comparison

4.1 Preliminary remarks

Originally we had planned to write two identically structured chapters for each Germany and Slovenia in part 1 (framework conditions). In the process of research, however, we realised that the framework conditions regarding the handling of land in Germany are basically different from those in Slovenia. This resulted in slightly different structures of the research paper for both countries. Even when the headlines are identical, the contents of the Slovenian part may vary from those of the German part. The different framework conditions in Germany and Slovenia are described in the following.

4.2 Differences in the general and institutional framework conditions

For better understanding the situation in Slovenia, which is very different from the situation of Western Europe, as there has only been a relatively short time of national independence after a period of socialism, there is an additional chapter about the development of spatial planning in Slovenia (chapter 3.1.1).

The structure of government and administration

As far as the government is concerned, the new constitution of the Republic of Slovenia of 12-23-1991 is very similar to the system of the Federal Republic of Germany. So, according to the constitution or basic law, both nations are democratic and social constitutional states. The positions and competence of parliament, government and president are also comparable.

There are considerable differences, however, with regard to the structure of government and administration. The reason of those differences is the different size of both countries. Whereas in Germany there is a distribution of competence at the various levels of the federation, the states, districts, counties and municipalities, there are only two levels in Slovenia: the federal and the municipal administration. Additionally, it is possible to organise administrational units within the area of one or several municipalities.

Finally we can say that in Slovenia there is a more direct access – even in the matter of spatial planning - from the federation to the municipalities than in the Federal Republic of Germany, where a great number of decisions concerning spatial planning are made at state, district or county levels.

Position of the municipalities / autonomy of municipal administrative authorities

Since the enactment of the law concerning municipal self-government of 12-31-1993, the municipal competence and responsibilities are very similar to those of German municipalities. Very similar, for example, is the financing of the municipalities (taxation, rent, financial adjustment etc.). The responsibilities of German and Slovenian municipalities are also very similar as far as planning competence and local land use planning are concerned.

There are differences with regard to the affiliation of municipalities to a county. Whereas all the municipalities in Germany belong to a county – with the exception of county-free cities – which is responsible and decides on certain matters of planning, in Slovenia the municipalities decide on their own if there should be a union or if they will belong to a county.

Economic and social situation

Whereas the economic situation in Germany – in the Old States at least- is characterised by 50 years of a relatively continuous growth period of market economy, the decisive factors in Slovenia are political change: national independence and market economy instead of socialism.

This is the reason why there will probably be more economic growth in Slovenia in future years than in Germany, which means there will be an increasing and additional demand for land, especially for industry and trade (unsatisfied demand).

As against the Federal Republic of Germany where in recent years commercial areas had a growing share in building land, the expansion of settlement areas in Slovenia in the last 3 decades resulted from growing housing construction. The reasons for house building in Slovenia are very similar to those in Germany (smaller households, number of extended families decreases, desire of owning a house within a garden etc.).

4.3 Differences within the system of spatial planning

Legal basis

The legal regulations concerning spatial planning also show the different structures of government and administration of both countries. So, the federal spatial planning act differentiates between four levels (EU, federation, states, districts) plus the local land use planning of the municipalities being the 5th planning level. The specification of planning increases with each subordinate authority. Whereas the federation just regulates the framework conditions, there is definite specification at the regional level.

In Slovenia, however, there are only two hierarchical levels (national, municipal). But there are further subdivisions with regard to spatial planning. Similar to the German situation, the national government defines the framework conditions which are binding on the municipalities with regard to long- and medium-term planning (approximately equivalent to preparatory land use planning in Germany) and to land use planning (approximately equivalent to binding land use planning in Germany). There are hardly any additional authorities between the national and the municipal level, however.

Administration of planning, plans and programmes

Resulting from the different size and different structure of administration of both countries, there is also a distinct difference with regard to the administration of planning.

Whereas Germany generally differentiates between four planning levels (federation, states, districts, municipalities), there are only two levels in Slovenia (government department for spatial planning and municipalities). However, there is regional spatial planning, too, in Slovenia: national regulations are being realised within municipal planning.

Development of recent tendencies

As far as recent tendencies are concerned, the Slovenian and the German situation vary widely. For Germany a great number of reforms are to be expected, as for example reform laws, co-operative planning approaches, structural reforms of the administration and changes resulting from EU regulations.

The great number of individual development proves that the basic principles of spatial and urban planning are laid down, but that there will probably be a lot of change with regard to specific details.

This is different in Slovenia, where there is an urgent call for action and the beginning of inevitable reform in order to solve a basic planning problem. This problem is the splitting up (which also takes effect on spatial planning) of the former centralised state into 192 municipalities, some of which are very small, without the linking of an effective regional administration. The splitting up results from the attempt to overcome the centralised government and administration of the socialist period – there were only 62 municipalities in former Yugoslavia.

4.4 Urban areas

Measures for land use

In Germany there is a body of law and there are a great number of regulations which regulate land use on various levels – starting with guidelines like the federal spatial planning act (ROG) to very specific laws and regulations like the federal building code (BauGB).
Additionally there is a number of further laws concerning spatial land use which have to be regarded – especially within the field of nature protection and environmental care. This results from a continuous and long lasting legislation which continuously refines and specifies legal regulations. At present there is the tendency to stop that development or to turn it round by simplifying and focusing some of the laws.

The situation in Slovenia is very different. It is already the name of the spatial planning act of 1990 ("spatial planning act in a period of transition") which shows that 10 years ago a completely new basis for spatial planning suddenly had to be established – with all the characteristics of short-term planning. In the near future, further modifications, supplements or reforms of spatial legislation are to be expected, which in detail will regulate land use at all the administrative levels.

Measures

Whereas it is typical of the legal situation in Germany to have a great number of formal (e.g. preparatory land use plan, FNP) and informal measures of spatial planning (e.g. urban planning conceptions), The Slovenian situation is characterised by the necessity to create and develop additional measures. These measures are meant to allow for spatial planning that will be widely accepted by the Slovenian population.

In Slovenia, however, there are also measures -and this is similar to Germany - to regulate spatial development (regulations for the construction of settlements, of nature reserves, infrastructural facilities, recreation areas etc.). Additionally there are measures on the municipal level which are comparable to the German preparatory land use plan.

Registering and filing spatial data

Basically there are differences between Germany and Slovenia with regard to registering spatial data.
In Germany, many data are registered by the municipalities, often with different departments and data files. Spatial data of those aspects which are beyond the planning competence of the municipalities are being registered by the county administrations (e.g. residual pollution registers of municipalities belonging to a county). Partially these data are being registered at municipal service industries, as for example the communal economic promotion agencies or the chambers of industry and commerce.
The mechanical data processed real estate register is a nationwide facility.

Slovenia, however, defines its spatial information systems according to its systems laws of spatial planning. This means that data are being registered by the department of statistics, by the surveyor's office and by the geographical information centre of the ministry of spatial planning and of the environment. These data are made available for the municipalities via data files and may be used as a basis of municipal planning. Besides these basic data, there are spatial data which are being registered by the municipalities. For the responsibilities beyond the planning competence of the municipalities, spatial data are being filed by the national governmental authorities.

Approaches to spatial management / approaches to sustainable land use

There are basic differences in this point in the German and the Slovenian part of the research paper: whereas the German part describes approaches of the municipalities to sustainable land management, the priority of the Slovenian part is the research of sustainable principles concerning spatial planning, which gradually and increasingly are taken into consideration. Obviously the discussion on sustainable land management has reached a stage of progress in Germany that is more advanced than in Slovenia.

Experience with the Slovenian partners (e.g. the application of GIS-systems) gives reason, however, to suppose that the development of sustainable land management systems will be realised in a similar way as in some German municipalities.

4.5 Final assessment of integrated land management as an approach to solving problems

In spite of many differences between the framework conditions in Slovenia and Germany, there are many common aspects as can be seen in the following:

- In both countries there will be a continuous demand of land in the years to come.

- There will be numerous conflicts of interests (private and economic interests, nature protection, environmental care, public interests).

- Spatial and urban planning have to show quick reactions to changing situations. Planning is not a static but a dynamic process.

- Land is a finite resource, therefore it should be used in a farsighted and economical way.

This short list already shows that planning in both countries is a very complex process. It will only be managed in a successful way in the future with the help of appropriate land management, which guarantees long-term availability of areas.

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