

creation of the document of Italian norms - »Carta by Giovanni« (also: Jokilehto 1999: 284, 288)

- ⁶ The Convention was valid when signed by 20 states - members of the United Nations Organisation. This happened in 1975. The Convention is legally binding also for Slovenia, when the so called »Act of notification of inheritance« was signed (More about the details of the Convention and other internationally binding contracts for Slovenia can be found in Petrič, 2000).
- ⁷ For example documents of the European conference of ministers in charge of regional development (CEMAT), European Spatial Development Perspective (ESDP), Guiding principles for Sustainable Spatial Development in Greater Europe.
- ⁸ The list of published international documents, dealing with conservation could be excessively long (even if we disregard the documents available on the worldwide web). In the continuation only publications accessible in Slovenia are listed, which besides containing the basic documents, also contain comments: Petrič, 2000; Marasoviš, 1983; Fister, 1979; Feilden, 1994; Feilden, Jokilehto, 1993: 111-116; Brguljan, 1985; Kolarič, 1975: 313-323; Deu, 1997: 39-42; Agenda Habitat, 1997; Compendium of basic texts of the Council of Europe in the field of cultural heritage, 1998; Operational Guidelines for the Implementation of the World Heritage Convention, 1994, etc.).
- ⁹ The substitution of the architectural conservation term reconstruction with the same term used for engineering and construction and so stipulated in the building law, is completely wrong. In the latter case reconstruction means the execution of acts by which the construction elements (of a building) are changed and the execution of those technical acts that affect (improve) the static safety of the building.
- ¹⁰ Guidelines from the meeting in Colombo, 1993. In: Seminar of the European Council on integral protection of cultural heritage, Ljubljana, 9.- 11. 2. 1994 (papers).
- ¹¹ Guidelines from the meeting in Colombo, 1993. In: Seminar of the European Council on integral protection of cultural heritage, Ljubljana, 9. - 11. 2. 1994 (papers).
- ¹² More on the Amsterdam documents, their content and meaning, can be found in: Kolarič, 1975: 313-323; Fister, 1979: 53-58; Marasoviš, 1983: 145-150; Compendium of basic texts of the Council of Europe... 1998: 147-151; 261-270; the texts are published untranslated.
- ¹³ The Convention is undoubtedly binding for Slovenia, after all obligations from international contracts and the Convention is a contract, reach with their validity above national laws (compare to: Petrič, 2000: 6).
- ¹⁴ For example the material: »European conference of ministers in charge of regional development (CEMAT) / European Spatial Development Perspective (ESDP) - first official draft.
- ¹⁵ One of these more contemporary endeavours is the book by author Nahoum Cohen »Urban Conservation« (1999). In the introduction he states that »urban planning and conservation are not in contradiction, but are complementary ideas. Urban planning that doesn't pay adequate respect to conservation, is incomplete.«

Pictures:

Scheme: *The extent and subdivision of the term »heritage«*

Picture 1: *The level of common knowledge about activities between different experts in the process of integral conservation*

Picture 2: *List of professions, participating at various extent, in the management of cultural heritage (source: Feilden, B. M., Jokilehto, J., 1993:48)*

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Maruška ŠUBIC KOVAČ

Goals and instruments of land policy and the growth and development of cities

1. Introduction

Instruments of land policy in particular countries are directly tied to the relationship between the role of private property and the use of authoritative measures to achieve specific goals. Possibilities for executing land policies and their success are not connected as much to the quantity of devised instruments, as they are to their suitability for achievement.

Valid instruments of land policies show, that even in this field, Slovenia is in a state of transition (Law on building land, Official bulletin, No. 44/1997). The legislature is adapting to constitutional provisions on private property. To achieve the set goals of land policies, also conditioned by the equality of private and public property, instruments of land policies have to change. Before new laws are passed in Slovenia, adequate respect has to be given to past experiences and the present circumstances while in the definition of the instruments themselves; the same has to be given to basic principles, from which procedures for implementing particular instruments evolve. Only in this way can the legally determined instruments of land policy become operational in practice and influence the development and growth of cities.

Urban development is tied to the reconstruction of cities. Reconstruction of cities implies active renewal, connected to the removal of dilapidated buildings and preparation of building land for construction and construction itself. Thus use changes while demand for new land increases. Thus development of cities affects their growth and reconstruction has to be dealt with in a complex manner. Even when building on vacant building land.

Urban reconstruction has to be assessed also from the economic aspect, because of the various costs involved. Exceptions apply to artistic, cultural and historical and similar buildings. An entrepreneur, whose desire is to maximise profit from his property, constantly compares the present yield with the yield one would achieve with changed land use. One decides for reconstruction only if the market value of the reconstructed property will be higher than the previous value, and the difference in value at least equal to the costs of reconstruction (Barlow, 1986). In national economic assessment of reconstruction, besides the increase of individual particular product, increase in foreign particular product, direct change in property and direct change in consumption have to be given due attention (Bajt, 1967). The logic of »cost-benefit« analyses can be applied.

When deciding »for« or »against« reconstruction it is necessary to pay adequate respect to the whole set of valid instruments of land policies.

2. Goals of land policies

Goals of land policies can be general or specific. While space and the time, in which they occur, condition specific goals are by general goals are long-term and not tied to na-

tion, region or local community. The goals of land policies that are directly tied to the growth and development of cities are:

1. In the name of public interest and/or private interest ¹ to obtain on time for construction suitable land according to site, surface and value, with respect to ecological considerations, protection of arable land, the right to a healthy environment, preservation of natural and cultural heritage and other interests expressed in space by law.
2. To ensure minimal, high quality and reliable supply of communal services to the public, conditions for rational construction of communal infrastructure and the execution of pertaining activities, with respect to rational use of urban land.
3. By directing and regulating the land market to affect and direct settlement and the development and growth of cities.

3. Main instruments of land policies

To achieve these goals the legitimate enforcers of instruments of land policies have at their disposal instruments of civil and public law. In the discussion we will deal with the latter.

Successful implementation of land policies is conditioned by the availability of certain instruments, especially those that, abiding by the Constitution, ensure land policies their allocation and distribution roles included in the mentioned goals:

- a) legal instruments:
 - preparing land for building
 - purchase of land on stock and for covering immediate needs, purchase of land when exercising legal pre-emption rights, (compulsory) replotting, readjustment of building land, (compulsory) replotting, readjustment as a consequence of building infrastructure, expropriation;
 - levy's
 - communal levy
 - permitting and prohibiting
 - changing boundaries of plots, physical development
- b) taxation instruments,
- c) instruments for executing financial support.

In view of the desired establishment of an intermediate level between the national and local level (municipalities, city municipalities, in continuation local communities) there is an often voiced demand for distinction between land policy instruments adequate to the particular, three levels. Often such distinction follows false understanding of particular terms. Land policy can be implemented on different levels, but with instruments that are in general provided by law. Let us take a brief look into the issue.

3.1 Instruments of land policies and different levels of discourse

The Slovenian Constitution it is stated, that municipalities and city municipalities decide about joining into wider local self-government communities, including regions (article 143, Slovenian Constitution, Official bulletin, No.33/1991). Such an agreement to establish regions would in practice be difficult. Besides, each of the joining communities has to be given the status of independent self-governing subject, with its own legality, property and functional subjectivity. The government so far hasn't provided for these features of self- government.

In general the government should by law ensure, adequate to the intention, just legal and economic arrangements of the field. Regions should be enabled harmonious development within the region and facilitated by physical planning. Local communities should exercise land policy based on a plan, i.e. the articulated desires or demands on a particular plot or area.

The law can award the region or local community with certain competence in the implementation of land policies. These legitimate subjects of land policy instruments are for example expropriated landowners, they can have agencies for conducting procedures etc. However, the fact doesn't change, that the basic units for dealing with land policy at the national, regional or local level are always and everywhere the landowner and the property ².

At present the region cannot be legitimately in charge of implementing land policy instruments. In the future it could, if the state grants it the status of self-government. The status isn't tied to the content of legally defined instruments of land policy. At any level, national, regional or local, the units of discussion are the landowner and the property.

Interests of particular participants that are objectively different ³ should be negotiated by land policy instruments. Even when preparing land for development.

3.2 Preparing land for construction

Building land can be obtained from the agricultural land stock or from the building land stock. The mentioned instruments of land policy can be applied to both. To achieve the first goal of land policy: to obtain on time for construction suitable land according to site, surface and value, is enabled by suitably formulated legal instruments of land policy, with respect to the following principles:

- constitutional guarantees concerning private property,
- equality of private and public property,
- use of property benefiting the community,
- subsidiarity: whatever cannot be negotiated by landowners themselves in the field of land policy, has to be managed by the legally determined competent bodies implementing land policies,
- limiting and/or retracting property rights against compensation to benefit the public domain, is the last possibility.

Decisions concerning the purchase of land on stock and for covering present needs are taken by the body in charge of implementing land policy, that have to manage their property efficiently. Land should be used above all for buildings in the public domain or for the exchange of land on which public buildings should be erected. They can also buy land that will be sold later, but the primary principle is to cover needs and not the principle of maximising profit. The law has to proscribe examples, when the body in charge of land policy is obliged to exchange land.

Purchase of land when exercising the legal provision of pre-emption rights is limited to building for the public domain. The body in charge of executing land policies has to prove availability of resources for the purchase of the land and carry out the pre-emption right in the legally proscribed period (60 days) from the date the landowner information about intended sale to a third party. After this period, the body in charge of land policy cannot exercise the pre-emption right instrument anymore ⁴.

(Compulsory) replotting, readjustment of building land must be based on the following principles (Weiß, 2000):

- conformity,
- solidarity,
- conservation
- private gain.

All apply to administrative compulsory replotting, carried out in administrative procedure and completed with a written order, or as contracted replotting, done without pressure according to the wishes of the landowner.

The law in Slovenia has to enable the enforcement of replotting, readjustment wherever land policies are executed in practice. For this reason, above all for administrative replotting (and correspondingly contractual replotting) the law has to specify:

- reasons for exercising the replotting or readjustment of building plots,
- alignment to physical planning and possibilities for changing development plans during the execution of the procedure,
- dates for the beginning of construction, end of validity of the procedure and return of former status to property.
- share of land to be used for public interest (upper and lower limit), applying the mentioned principles in practice,
- proof by the body in charge of land policy concerning land for exchange, resources for beginning the procedure and purchase of land;
- financial aid in implementing replotting, readjustment,
- institutional framework: control and professional leadership when exercising replotting, readjustment.

Besides the stated, (compulsory) replotting, readjustment also demands:

- suitable manual for executing the replotting,
- accurate land book (property and landowners) and land cadaster,
- monitoring and analysis of the building land market,
- proper taxation of property.

(Compulsory) replotting, readjustment as a consequence of building infrastructure ⁵ is based on the same principles as replotting, readjustment of building land, except the principle of private usefulness. It is applied in the procurement of land for building infrastructure that is in the public domain. Land in the corridor can be bought outright, bought by pre-emption right or by expropriation. Simultaneously replotting, readjustment is carried out on the remaining agricultural land. The burden of loss of land for building for the public interest is thus divided between a larger number of landowners and building land can be obtained faster. The remaining agricultural land can be more functionally arranged. Damage to all the cultivated land can be prevented, that could possibly occur because of construction.

To carry out such replotting, readjustment it would be necessary to legally establish public interest in the activity and procedure. Replotting, readjustment should in general represent new arrangements on the property, with measures for improving production or working conditions in agriculture and forestry, as well as to stimulate the cultivation and development of the countryside.

According to the Slovenian Constitution property rights, as a guaranteed constitutional right, are not tied only to other human rights, but moreover to basic privileges. Intervening

with private property is equal to trespassing on one's basic privileges. These are not written only in the valid Constitution, but also in international legal documents, ratified by Slovenia. Thus expropriation is the last option for land policy enforcement in the procurement of land for building in the public domain.

Amongst other the law has to stipulate:

- market value as the basis for evaluation of property and/or land,
- examples for compensation in the form of substitute property and/or land,
- proof about resources for compensation and/or substitute property,
- out-of-court resolution of contestable cases.

The large quantity of litigation and delays in expropriation procedures are caused by the method of evaluating property (Šubic Kovač, 2000). At present evaluation is based on the status of the property and not its actual state. Under market economy conditions and corresponding evaluation, for expropriation purposes each property should be evaluated separately and the market value of the property established from case to case, whereby the status of the property isn't always the decisive factor. Besides, monitoring and analysing the property market should make the market transparent. Thus objective evaluation by assessors could be ascertained, as well as objective expectations of property owners concerning the value of their property.

Communally equipped building sites

Communal equipping of building plots is the most important activity in the early stages of preparing plots for building. Many users will use the built communal supply systems. Their construction demands substantial financial resources. That is why, equipment of building plots is directed and regulated by the government and local authority. It is done in the public interest and run as an economic public service.

The whole complex of equipping building plots can be regulated from the national level with the law and by-laws. Implementation of building plot equipment is granted to individual subjects granted the task by law and by-laws. By-laws have to proscribe (Rakar, 2001):

- technical conditions for equipping building plots,
- programme of equipping building plots,
- method of calculating the communal levy.

Technical conditions for equipping building plots are conditions by which such equipment is ensured on building plots, that the future users of the buildings built and intended for residential or other purposes, are ensured the basic conditions for their use, for living or work. In the normative sense these technical conditions include:

- technical and other regulations and standards, applying to communal (services) equipment and pertaining supply networks that comply with the law;
- descriptions of particular types of communal equipment and demands for connections to supply networks;
- norms, guidelines and recommendations for ensuring particular types of communal provision.

Technical conditions are the legal basis for preparing spatial plans, project documentation and for the construction of those infrastructure networks, objects and apparatus, that have the character of communal equipment of land, as well

as their eventual connections to supply systems of local and/or national significance.

The programme of equipping building plots is the basic regulation mechanism of the local community. It is a programme of activities needed to achieve those parts of the spatial plan on the municipal or lower level, that pertain to equipping vacant building plots with communal (services) infrastructure.

Financing the equipment of building plots is tied to the communal levy. The communal levy is based on these principles (Rakar, 2001):

- equal value of taxes and counter-taxes,
- equality of payment obligees,
- possibilities for paying the communal levy in different ways.

The communal levy represents payment of the corresponding share of costs for the preparation of building plots and is collected by the local authority, where the property lies. The basis for calculation in a given area are the costs of the first construction and/or reconstruction of communal equipment, that has the status of public infrastructure, and its connection to the pertaining services network. If the before mentioned principles are applied in the calculation, then the communal levy is an instrument and regulator for directing settlement and urban growth.

Preparation of building plots is carried out transparently and uniformly, within the set technical conditions, programme of preparing building plots and the communal levy. It ensures the users minimal, good quality and ascertained supply services conditions for rational construction of communal infrastructure and the execution of services. It benefits the rational use of urban space and natural resources. It has to be included in the physical planning system before decisions on land use for certain properties and can therefore influence decisions concerning settlement and urban growth.

3.3 Taxation instruments in land policies

In the existing framework of taxation, the first one that needs redefinition is the property tax and the subsidy for using building land into a uniform property tax. Besides the general principles that are applied in taxation, the following also have to be respected:

- singular taxing,
- complementarity,
- proportionality
- compulsory taxation.

Concerning control over settlement and the growth and development of cities it is important to understand that:

- property tax is a financial source in a local communities budget;
- the basis for taxation is the market value of property;
- in general exceptions are few;
- the local community can determine the level of taxation, within the proscribed limits.

The local community must have the possibility of choosing taxation level intervals for different types of property, whereby it can attract or discourage particular development. A special problem is vacant building plots. Property owners have to be encouraged to develop as soon as possible.

Such property therefore has to be heavily taxed and progressively in view of the time elapsing between the status of »building plot« being granted and beginning of construction.

To prepare such a tax on the national level, besides passing a pertaining Law, it is also necessary to:

- establish an adequate database about activities on the property market and about properties of tax obligees;
- devise a suitable methodology for evaluating property for its evaluation in the taxation process;
- educate professionals to accomplish tasks concerning property, to operate on the national as well as local level.

From the stated it is clear, that the easiest task is to adopt a Law, but its enforcement will demand respect for the three stated pre-conditions. Therefore at this moment it is rather deceiving to debate the introduction of the tax on so called planning gain ⁶.

Opinions whether planning gain should be taxed or not vary (Hangman et al, 1976). The problem is that it is difficult to define and measure its yield. Not only do we need an adequate database, presently not available in Slovenia, but we also need a long-term overview of how prices were set for undeveloped building plots. Other important considerations are:

- purchase of property is »by definition« tied to risk, from which either profit or loss are the outcome;
- this profit is often achieved only on paper;
- according to the principle of single taxation, such tax has to be applied together with the tax on yield from capital.

Introduction of the tax on planning gain simultaneously demands the introduction of a tax on planning loss that could possibly alleviate problems emerging from bad decisions of physical planning professionals.⁷

We can intervene in the field of speculative purchase of land with the tax on yield from capital, implemented in the framework of existing laws (Law on income, Official bulletin, No. 71/1993) and calculated for physical persons as income tax. According to the law it is imposed on property that is sold or exchanged before the passage of three years from the day the property was obtained. This tax is not paid if tax on trafficking of property isn't paid. The three-year period is too short to prevent speculative purchase. The basis for taxation should be differentiated, not only by the yield, but also by the time period, extending across a longer period.

4.4 Instruments for implementing financial aid

Land policy cannot achieve its goals only with legal and taxation instruments. Its allocation and distribution roles can be achieved even with adequate financial support. Certain types of development can be subsidised by the government or local authority by loan grants or guarantees on loans. In the discussed system of land policy instruments, the local authority implements subsidies by lowering the payment range on communal levy. In this way it can enable access to building plots for socially weak population groups.

1. Conclusion

With the new Constitution and changed legal ownership relationships, instruments of land policies should also change. In Slovenia these changes are unfortunately excessively

slow and under tremendous influence by users of former social property from the recent past, now changing into private property. Changing the Constitution and declaring market economy as the mode of conduct are not enough. The necessary legal framework has to be set up as well. Besides, the introduction of new, albeit indirect instruments of land policy (compulsory replotting of building plots), demand a specific approach. The legal definition of instruments of land policy is needed, but not the only condition. Mentality has to change. Only then will instruments of land policy, already known and respected worldwide, become operational even in Slovenia.

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Notes:

- ¹ Priority is given to public interest although the role of private interest cannot be denied.
- ² The owner has to be »convinced« that his land will be used for the proposed intent.
- ³ They are: the landowner, the government and/or local authority and investor.
- ⁴ In the opposite situation, untimely execution of the pre-emption right would imply a larger intervention into private property.
- ⁵ Further reading on the success of (compulsory) replotting, readjustment, as an instrument of land policies in obtaining land for building in Germany, can be found in Weil³ (2000).
- ⁶ Planning gain in general represents the increase in property value, that has not been caused by the landowner or inflation, but by the decisions of government or local authority concerning physical planning. Planning loss correspondingly represents loss in property value caused by the decisions of government or local authority concerning physical planning.
- ⁷ In this case the issue is tax on planning gain. If the issue are other types of taxation, we have to be very careful, after all principles such as the »principle of tax and countertax«, can be rather binding (Fuchs, 1991).

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Andreja JAN

Plečnik's concept of planning the rehabilitation of Ljubljana

1. Introduction

The most common explanation of Plečnik's creative rationale in the Ljubljana city centre is the one stating that his concept follows the masters daily walks from home through the city. They conditioned the emergence of particular axes, binding the city into a whole.

This interpretation of Plečnik's concept was first noted by Grabrijan in the book Plečnik and his school. Plečnik's urban planning was understood as the transformation of urban arteries, which were given special attention by Plečnik, and were often repeated even in later interpretation of Plečnik's work in the city centre. This interpretation stresses Plečnik's experience of the city »in natura«, and is the key source of his architectural creativity. Since Plečnik didn't leave any theoretical explanation of his work, the basis for interpretation can only be analysis of his work and in-depth understanding of the circumstances of their creation. Proof for the emergence of the phenomenon »Plečnik's Ljubljana« can therefore be found only in his legacy.

2. Planning circumstances

Most of Plečnik's Ljubljana was created between 1926 and 1941, including the times of the general economic crisis. During the period Plečnik accomplished a series of projects in the urban tissue, by redesigning squares, roads and the banks of the Ljubljanica River.

An interesting point is that at the time out of the 128 km of roads in Ljubljana only 7km of roads (and squares) were paved. Another point is that most of the projects were financed from public works and mainly from funds provided for paving streets and roads² Limited financial resources did in fact have a significant impact on the execution of proposals. Plečnik often achieved his goals with minimal resources (by planting, using historic fragments), thus lowering building costs. The projects were achieved by adjusting the architects proposals to the needs and financial possibilities of the municipality, but also as Plečnik's monumental answer to functionally conditioned demands by the municipality, which were also used for achieving his own vision of the city as the national capital.

Municipal commissions related to spaces surrounding the medieval city core of Ljubljana. Although these spaces were of key significance for the spatial structure of the city and important transition areas between the old and new city, they were either completely dilapidated or with poor architectural image.

3. Planning urban rehabilitation

Most of Plečnik's achievements lie in the inner city, mainly in the transition zone between the medieval core and new