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STUDIES IN
SPATIAL DEVELOPMENT



The Planning System and Planning Terms in Germany

A Glossary

Elke Pahl-Weber, Dietrich Henckel (Eds.)

ARL

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A Glossary



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Academy for Spatial Research and Planning

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The Publisher's Preface

Under the leadership of the publisher, Academy for Spatial Research and Planning (ARL) the BSR INTERREG III B Project "COMMIN – Promoting Spatial Development by Creating *COM*mon *MIN*dscapes" was executed during the time period of September 2004 until August 2007 by 28 partners from 11 different countries in the Baltic Sea Region, including Belarus, Norway and Russia as non EU countries. WWW.COMMIN.ORG contains all deliverables of that project encompassing more than 5,000 printed pages with descriptions of 11 different planning systems, glossaries of planning terms, fact sheets of planning examples and more. The information is given in English and in the respective national language for most of the part.

The publication on hand was prepared after the COMMIN project was finalised. We are happy to present an extraction of the COMMIN overall content covering only the German information package. It could be considered to be the replacement of the similar document already published by ARL in 2002 entitled "Spatial Planning in Germany – Structures and Concepts". However, that former publication displayed the mere exchange on spatial planning between, at that time, only two countries having the objective of fostering the mutual linguistic understanding. In contrast, the present document constitutes the outcome of a process involving 11 different systems, connotations and backgrounds meeting altogether on a 12th level – the English language. All project partners were aware of the fact that each translation requires a balancing act between legal precision with regard to nationally defined terminology and communicable expressions which could be understood by third parties the same way and, at the end, each such translation is a question of definition power and of different senses for semantics.

The various parts of this document were compiled until December 2006. During the elaboration time, later on until the COMMIN-Project was completed and the present print publication was prepared federal and constitutive state acts concerning spatial planning were permanently under discussion and they are going to be revised definitely.

For instance, the Federal Spatial Planning Act will be amended. In spring 2008 the Federal Ministry for Transport, Building and Urban Affairs worked out a draft legislation text. The new Act is expected to come into force in 2009.

Besides the Federal Spatial Planning Act the German environmental legislation will be changed, too. The major fields of environmental legislation presumably will be integrated in a new „Environmental Code". This project accompanies an amendment of many environmentally relevant acts such as the Federal Immission Control Act, the Federal Water Act and the Federal Nature Conservation Act. Still it is uncertain when the Environmental Code will come into force. Therefore legal modifications in this regard have not been included in this glossary.

Anyway, as there is currently no other publication treating this subject in English it will hopefully contribute not only to a better understanding of planning issues in Europe but also to a transfer of information and knowledge with respect to the German planning system. Being aware of differences between countries is a point of departure for the mutual understanding process.

Academy for Spatial Research (ARL), August 2008

The Planning System and Planning Terms in Germany

A Glossary

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A Glossary

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Berlin, 2008

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Preface

At a time when Europe is growing together, cooperation between countries is becoming increasingly necessary. One of the main reasons for pursuing transnational spatial development in the Baltic Sea region is to attain a common understanding of the facts of planning.

The COMMIN project seeks to foster and develop this understanding and thus to establish a common communication basis for the exchange of knowledge and experience. In past years, most of the countries involved have modified existing planning law, or, in the countries that joined the European Union in 2004, completely new planning systems have been established. No overview of the current status of planning systems in Baltic Sea region countries was available. It has therefore been the task of all eleven countries taking part in the COMMIN project to prepare an account of basic institutional and spatial planning principles and to compile a glossary of key concepts in spatial planning. The two products have been elaborated in the eleven different languages and then translated into English to provide a basis for communication about systems and concepts in the world of spatial and urban planning, and hence to promote mutual understanding as a whole.

The participating countries tackled these tasks in very different ways, but it was everywhere clear that no joint compendium comprising a description of the planning system and key planning concepts existed for all the countries of the Baltic Sea region. Many countries already had basic materials, like the Akademie für Raumforschung und Landesplanung (ARL) binational planning handbooks or an overview of formal planning instruments at the EU level produced by the VASAB project (cf. http://vasab.leontief.net/). This was the basis on which the project could be developed. In the interests of developing a common basis for communication, it was a particularly challenging task to provide not only a technically impeccable description of the complex systems in each country but also to formulate it in language accessible to international planners and to readers from outside the planning profession. However, comprehensibility proved an increasing difficult problem. It was almost impossible to strike an acceptable balance between a scientific account of the structure of government and administration and the entire planning system and a readable, comprehensible description for the use of non-experts at home and ab-

road. What exacerbated the problem was the virtual absence in Germany and other countries of official translations for technical terms in spatial planning.

Particularly confusing for participating countries was the three-tier government system in Germany, with not only the federal government at the national level and local government but also the intermediate level of the constitutive states (Bundesländer), which exercise their own state authority, as well as territorial and personal sovereignty. But this confusion is also a point of departure for the understanding process.

The German text was prepared by a team comprising planners, lawyers, economists, and administrative scientists. It required a balancing act between legal precision and communicable classification.

Finally an editorial note: to keep a text already larded with information and notes as readable as possible, we decided to use the masculine form in most cases. In principle, however masculine also stands for feminine.

There is no treatment of this subject in English that is so up to date (status December 2006) and we hope that it will contribute not only to understanding in Europe but also to the transfer of information and knowledge within the country.

I. Constitution, Government and Administration

1. Constitutional System

1.1. General Description of the Constitutional System[1]

The constitution of the Federal Republic of Germany dating from 1949 is called the Basic Law (Grundgesetz). It deals with a number of aspects, enumerates basic rights, and, in Articles 20ff, lays the foundations of government. The fundamental structural principles of the Federal Republic of Germany are:

- federalism,
- democracy,
- the rule of law,
- the "social state" (government based on social justice).

Federalism

According to Article 20 (1) of the Basic Law, the Federal Republic of Germany is a democratic and social, federal state.

The federal structure laid down by the constitution provides for statehood at two levels. The federal state is composed of a central government (Bund) and a number of constitutive states (Länder or Bundesländer).[2] The states have united to form a Federation under the name Federal Republic of Germany (Bundesrepublik Deutschland). The constitutions of the 16 constitutive states of the Federation vest them with state authority and with territorial and personal sovereignty.[3] Apart from the tripartite, horizontal division of powers between legislature (law making), executive (government and subordinate administration), and judiciary (courts), state authority in the federal state is distributed between the Federation (Bund) and the member states (Bundesländer).[4] The Basic Law assigns the exercise of state authority and the discharge of state functions to the constitutive states of the Federation, except as otherwise provided or permitted by the Basic Law itself Competence is deemed to lie with the states unless otherwise specified.[5] The functions or powers of the Federation as central government are enumerated in the Basic Law. In questions of competence, the Basic Law must always be consulted to ascertain whether it assigns jurisdiction to the Federation in the field at issue. If this is not the case, the states alone are competent.[6]

The Social State

Article 20 (1) and Article 28 (1) of the Basic Law address the social function as an explicit objective of government. This "social" function is very broad in scope, requiring and inviting

1 Grundgesetz für die Bundesrepublik Deutschland of May 23rd, 1949 (BGBl. 1949, 1), amended by statute on August 28th, 2006 (BGBl. I 2034).
2 Cf Badura, Staatsrecht, D, Rn. 69, 336
3 Cf Badura, Staatsrecht, D, Rn. 69, 336
4 Cf Badura, Staatsrecht, D, Rn. 69, 336
5 Cf Katz, Staatsrecht, Rn. 250
6 Cf Katz, Staatsrecht, Rn. 250

substantial legislative effort, since its satisfactory performance is strongly affected by changing economic and political conditions. The "social state" principle alone cannot provide independent justification for any subjective rights of the individual.[7] Social state rights can therefore not be derived from the principle. The more specific constitutional directives drawing on the social state provision can be called "rights" only in a general and non-technical sense. A number of basic rights (Articles 6, 7, 12 (1), 9 (3) of the Basic Law) can be described as social state rights. The Social Code – General Part – describes fundamental social policy goals as "tasks of the Social Code" and lists a number of "social rights" to be addressed by statutory social services and benefits (promotion of education and employment, social security, social assistance, etc.). These social rights have no constitutional status; they summarise entitlements in areas dealt with by social law and cannot in themselves found claims.[8]

Democracy

Article 20 (2) of the Basic Law gives a detailed description of popular sovereignty, the key characteristic of the democratic state: "*All state authority is derived from the people. It shall be exercised by the people through elections and other votes and through specific legislative, executive, and judicial bodies.*"

In Germany, all state authority is derived either directly or indirectly from the people. In this sense, the people are the sovereign in the state, and, so to speak, rulers over themselves. The people, the "nation" exercise their authority directly by means of elections and other forms of ballot. Beyond elections and other voting procedures, the people exercise their state authority only indirectly through the institutions of the legislature, executive, and judiciary.[9] The principle of popular sovereignty legitimates the exercise of all state authority by the people. This means that government institutions must be constituted by popular election (e.g. the federal parliament, the Deutscher Bundestag) or be put in office by elected representatives (e.g. the Federal Chancellor, the head of government, who is elected by the Bundestag). At the federal level, direct democratic procedures (plebiscites, referendums) have played no role, so that the Federal Republic can be described as a representative democracy.[10]

Article 20 of the Basic Law also stipulates the separation of powers. The separation of powers is intended to provide constitutional limits to the exercise of power, and to ensure democratic representation and the rational discharge of functions.[11] The aim is not to divide state authority but the exercise thereof, and to distribute it among different institutions.[12] Article 20 (2) sentence 2 of the Basic Law lists the classical lawmaking, executive, and judicial functions of government and prescribes their exercise by special institutions, without at this point naming them. Later constitutional provisions set forth the details.[13] Legislation is largely entrusted to the Bundestag, executive powers to the Federal Government and the administration subordinated to it, and judicial powers are vested in the courts.[14]

The institutions of the state are interlinked by a dense network of participatory and supervisory powers.

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7 Cf Badura, Staatsrecht, D, Rn. 36
8 Cf Badura, Peter, Staatsrecht, D, Rn. 37
9 Cf Badura, Peter, Staatsrecht, D, Rn. 6, 271f
10 Cf Katz, Staatsrecht, Rn. 142ff, 73ff
11 Cf Maurer, Staatsrecht I. Grundlagen – Verfassungsorgane – Staatsfunktionen, Rn. 5.
12 Cf Maurer, Staatsrecht I. Grundlagen – Verfassungsorgane – Staatsfunktionen, 379 Rn. 1
13 Cf Maurer, Staatsrecht I. Grundlagen – Verfassungsorgane – Staatsfunktionen, Rn. 13
14 Cf Maurer, Staatsrecht I. Grundlagen – Verfassungsorgane – Staatsfunktionen, Rn. 13

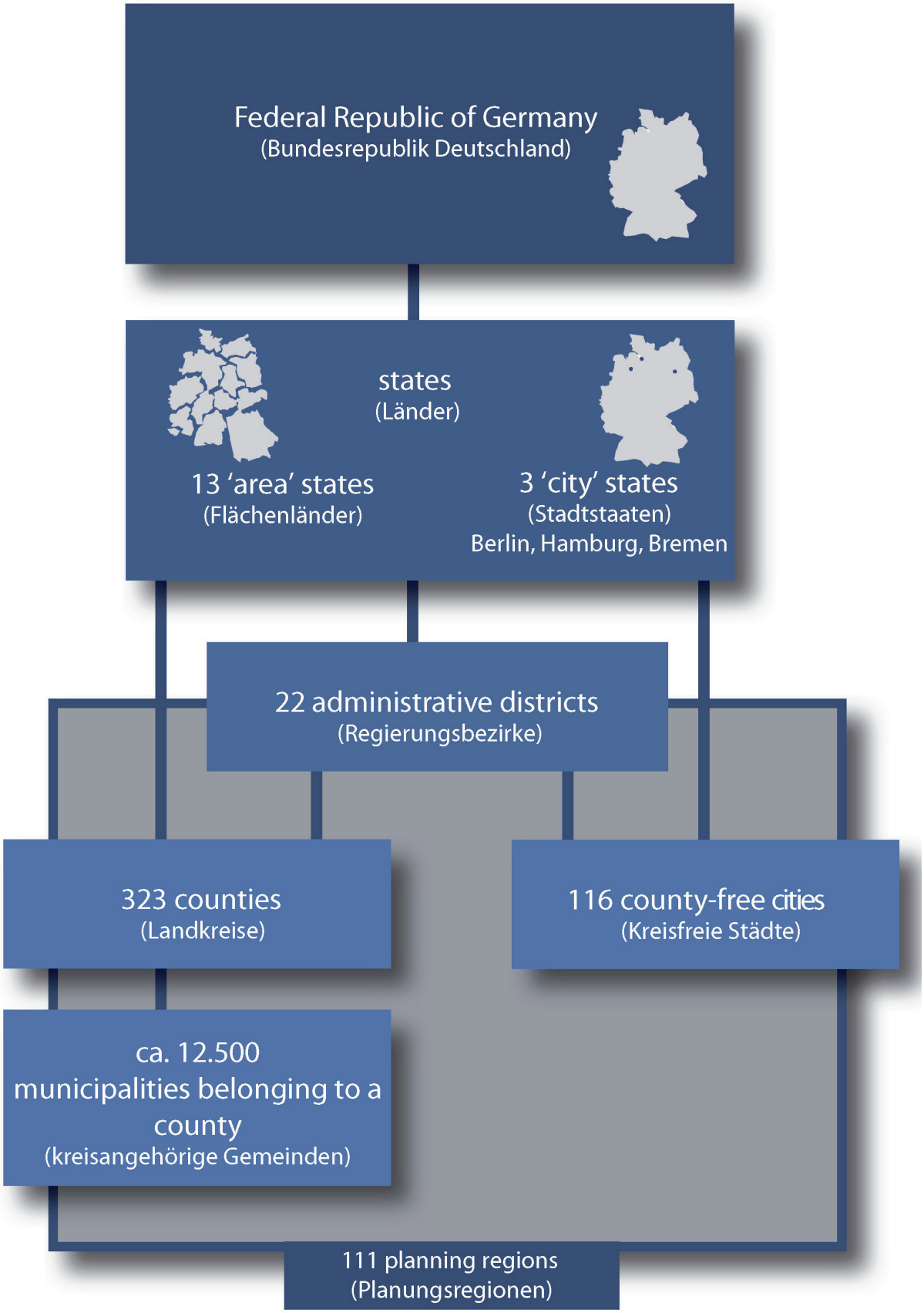


Figure I.1: Administrative structure in Germany (own illustration)

The Rule of Law

Article 20 (4) of the Basic Law names key elements in the principle of the rule of law:

"The legislature shall be bound by the constitutional order, the executive and the judiciary by law and justice."

The Basic Law details the rule of law in numerous individual provisions. These provisions give expression to the fundamental objectives of the rule of law, the safeguarding of personal freedom, and the subjection of state authority to the law.[15]

Public administration must not violate valid law (constitution, statutes, ordinances) and must conform with prevailing legal principles. At the same time, administration requires a basis in law,[16] precisely defining and limiting the powers of administrative authorities, for all measures that encroach upon the freedom of the citizen. The principle of "proportionality" comes to bear in this connection. It requires that civic liberties be not excessively restricted; that the purposes of government and the means chosen to achieve them must be proportionate.[17] All public authorities are bound by these principles in performing their functions.

The judiciary is the third branch of government. The arrangements for the administration of justice and the extent of individual legal protection are yardsticks for the rule of law. Article 19 (4) of the Basic Law states: "Should any person's rights be violated by public authority, he may have recourse to the courts." It is the task of the judiciary to reach binding and impartial decisions through special procedures in the event of legal dispute or violation of the law.[18] In the Federal Republic, the judiciary is divided into five, independent court systems: ordinary courts (civil and criminal), administrative courts, social security courts, finance courts, and labour courts. Each system is differently structured. Jurisdiction is divided between the Federation and the states; the supreme courts in each system are federal courts, while all lower courts are state courts (cf chapter I.2.2).[19]

Safeguarding the Structural Principles of the Constitution

The principles laid down by Article 20 of the Basic Law (federalism, social state, democracy, and the rule of law) cannot be changed by legislation. This also applies for the protection and recognition of human dignity and for the subordination of government to the basic rights enumerated in the Basic Law (Article 1). These constitutional principles are core components of the Basic Law, and, according to Article 79 (3), cannot be modified even by constitutional amendment (so-called "perpetuity clause").[20]

1.2. The History of the Constitutional System

19th Century

The concept of the rule of law (Rechtsstaat) entered the political discourse in the first half of the 19th century and has since played a key role in German legal and constitutional history. In the mid-19th century, the middle-class constitutional movement led to the introduction of constitutions pledging the rule of law in almost all the countries of Germany. They promised:

- the recognition of civic liberties,

[15] Cf Katz, Staatsrecht, Rn. 162, 84
[16] Cf Katz, Staatsrecht, Rn. 189ff, 93ff
[17] Cf Katz, Staatsrecht, Rn. 205ff, 102ff
[18] Cf Badura, Staatsrecht, D, Rn. 62
[19] Cf Katz, Staatsrecht, Rn. 516f, 254
[20] Cf Katz, Staatsrecht, Rn. 134, 67

- equality before the law,
- the involvement of representatives of the people in legislation and
- independent courts.

Unlike the rule of law, democracy made no decisive headway in the 19th century. The middle classes proved too weak to assume the dominant role in government: the first constitution of the Germans, the "German Imperial Constitution" was adopted on 27 March 1849 by the National Assembly meeting in St. Paul's Church in Frankfurt.[21] It was the product of the democratic and liberal movement, which sought to achieve the national unity of the German people by parliamentary means. The king of Prussia, Frederic William IV, was elected German emperor by the National Assembly. But he never accepted this election, since he regarded himself as a ruler by the grace of God.[22] The March Revolution of 1848 failed to produce any constitution that came into force.[23]

The middle classes made a compromise with the traditional foundations of monarchical government. Under the system of constitutional monarchy, the middle classes waived political leadership in government, and in so doing safeguarded their economic and social interests. The political core of constitutional monarchy is the sharing of legislative power between the monarch, an upper chamber primarily representing corporative interests and the nobility, and a lower, popularly elected chamber.[24] Because suffrage for the lower house was not equal but depended on property status (three class franchise), the predominance of the propertied classes was secured in parliament and legislation. By the end of the 19th century, the demand of the middle class that the monarch should be bound by the law was met. This found expression in the concept of the lawfulness of the administration.

Not until 1871 did Bismarck found the German nation-state as a federation of German princes. This Empire, a constitutional monarchy, came to an end in the aftermath of defeat in World War I and the revolution of 1918/19.[25]

Weimar Republic (1919-1933)

As a consequence of these events, government was established on the basis of a different political principle, the sovereignty of the people.[26]

On 31st July 1919, the empire became a parliamentary, democratic republic, the so-called Weimar Republic, by adoption of the "Constitution of the German Empire." It was given this name because the explosive situation in Berlin obliged the newly formed national assembly to meet in Weimar.[27] This renewed attempt to turn Germany into a liberal and democratic country met with considerable resistance from the very outset. In many cities, workers' and soldiers' councils formed. It was a time of political radicalism and economic crisis.

Parliamentary democracy was sickly from the start. Any provision of the constitution could be amended by a two-thirds majority. Even basic rights could be abolished by this means. The unsettled political conditions caused by, among other things, the Versailles Treaties, the Great Depression of 1929 and the consequent mass unemployment turned many people away from democracy,[28] strengthening the growth of radical, extremist parties (especially the NSDAP).

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21 Cf Badura, Staatsrecht, A, Rn. 25, 28
22 Cf Katz, Staatsrecht, Rn. 79, 33f
23 Cf Maurer, Staatsrecht I. Grundlagen – Verfassungsorgane – Staatsfunktionen, 26
24 Cf Katz, Alfred, Staatsrecht, Rn. 83, 35
25 Cf Badura, Staatsrecht, A, Rn. 26, 28f
26 Cf Katz, Staatsrecht, Rn. 88, 37
27 Cf Badura, Staatsrecht, A, Rn. 27, 29f
28 Cf Katz, Staatsrecht, Rn. 92, 39f

From 1930 onwards, the parliament (Reichstag) was dissolved a number of times, and there were only minority governments, which ruled with the aid of the Reichspresident's extraordinary powers.[29]

The Third Reich (1933-1945)

These developments bear a major part of the blame for the demise of the Weimar Republic and the establishment of the Third Reich on 30th January 1933. The Act to Remedy the Distress of the People and the Empire (Enabling Act) passed on 24th March 1933 by the Reichstag empowered the government to make laws without the participation of parliament (Articles 1 and 2).[30] In effect, it transferred legislative power to the executive, abolishing the principle of the separation of powers.[31] On the basis of the Gleichschaltung Act, federal and state governmental organisation was forcibly coordinated, the principles of the Enabling Act were extended to the states, and the "Führer principle" was imposed at all levels.[32] The death of Reichspresident Hindenburg on 2nd August 1934 finally paved the way for Hitler to introduce a totalitarian regime, since the powers of the president devolved to him as chancellor.[33] In the field of foreign policy, the following developments took place: in 1933 Germany left the League of Nations; in 1934 it unilaterally denounced the limitation of armaments imposed by the Treaty of Versailles. In 1936 the Rhineland was occupied, and Austria and the Sudetenland annexed in 1938.[34] With the German invasion of Poland on 1st September 1939, the Second World War began. It ended with Germany's capitulation on 7th/8th May 1945 and the fall of the National Socialist dictatorship.

After 1945

Capitulation did not lead to the extinction of the German Empire but only to the complete military defeat of Germany[35]. In the Berlin Declaration and Potsdam Agreement of June/August 1945, supreme authority was transferred to the supreme commanders of the four victorious powers, the United States of America, the Soviet Union, the United Kingdom, and France over their respective zones and to the Allied Control Council, composed of the four commanders-in-chief, for the whole of Germany.[36] Owing to political differences with the Western powers, the Soviet Union ceased collaboration on the Allied Control Council in the spring of 1948[37]. The establishment of the West German state proceeded step by step. After the West German zones had amalgamated economically in January 1947 to form the Bi-Zone and in March 1948 to constitute a Tri-Zone, the eleven state premiers were called upon in July 1948 to convene a national assembly and draft a constitution.

The constitution of the Federal Republic was to be designed to exclude any rejection of the rule of law. Binding all state authority to the law was no longer to mean solely that it was bound by statutary law: legislation itself was to be bound by certain supreme legal principles.

A 65-member assembly elected by the state parliaments (Landtage), the so-called Parliamentary Council, drafted not a constitution but a Basic Law, since they feared that the division of Germany would be consolidated constitutionally if the term constitution was used. Agreement was thus reached on a provisional arrangement.[38] The Basic Law was created in rejection of the Weimar constitution, drawing on tried and tested, earlier German and European constitutional

[29] Cf Der Brockhaus in einem Band:976
[30] Cf Katz, Staatsrecht, Rn. 93
[31] Cf Katz, Staatsrecht, Rn. 93
[32] Cf Katz, Staatsrecht, Rn. 93
[33] Cf Badura, Staatsrecht, A, Rn. 28, 31f
[34] Cf Der Brockhaus in einem Band, 617
[35] Cf Katz, Staatsrecht, Rn. 125
[36] Cf Katz, Staatsrecht, Rn. 125
[37] Cf Katz, Staatsrecht, Rn. 125
[38] Cf Katz, Staatsrecht.69ff

traditions and introducing important new elements.[39] Despite some differences of opinion, it was signed by the minister presidents of the states in the three Western zones of occupation on 23rd May 1949.[40]

1.3. Basic Principles of the Political and Administrative System[41]

The *democratic principle* calls for general legitimation of all state authority by the people. The people exercise their state authority directly by means of elections and other forms of ballot. Apart from elections and other ballots, the people exercise state authority only indirectly through the institutions of the legislature, the executive, and the judiciary. Thus, in keeping with the tenets of indirect, representative democracy, the German people delegate their sovereignty to the legislature and executive for a limited period and subject to revocation.

The *principle of the rule of law* requires all government action to be bound by law and justice. The crux of this principle is the (horizontal) separation of powers: the functions of government are assigned to the institutions of the legislature, executive and judiciary. This renders any abuse or arbitrary use of state power more difficult. The Basic Law places particular weight on the judiciary. This is evident in the status of the Federal Constitutional Court as supreme constitutional body, in the comprehensive guarantee of recourse to law provided by Article 19 (4) of the Basic Law, in the independence of judges, and in their strict commitment to the law.[42]

The *social state principle* requires government to establish equality of opportunity and social equity, and hence to protect the socially weak.[43] There is therefore a far-reaching network of social security legislation, encompassing, for example, the provision of security in the event of illness, accident, and old age, and the provision of child, housing, and unemployment benefits. Encroachment on basic rights is possible in the interests of implementing the social state principle.

The *federalism principle* is realised by distributing state authority between the constitutive states and the Federation. This principle of the vertical separation of powers, which contrasts with that of the unitary state, is crucial in understanding the structure of government and administration in Germany. The distribution of state authority in Germany between the Federation and the 16 individual states means that not only the Federation itself but also the constitutive states possess statehood. The distribution of functions between the overall state (Federation) and member states must be fully specified by the Basic Law.[44] The states accordingly have no static and immutable catalogue of functions and competencies, but they do have a genuine core of vested, non-derived powers, which include certain areas of legislation (e.g. cultural affairs).[45] Within the framework of the federal constitution, the states have limited sovereign powers in certain areas, which they exercise through their own legislative, executive, and judicial systems. Most legislation is in the hands of the Federation, whereas the states are primarily responsible for administration. The federalism principle, in other words, the construction of the federal territory out of autonomous states with their own constitutional orders, is of crucial importance for spatial structure and development in Germany, since, unlike in centralised, unitary countries, this system lends greater weight to regional particularities and initiatives, and favours the development of numerous economic, cultural, and political centres, as well as more balanced spatial structures. The relationship between the Federation and the states has been reorganised with respect to legislative competence under the so-called "federalism reform"[46] (cf details in chapter I.2.2).

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[39] Cf details in Katz, Staatsrecht, Rn. 126
[40] Cf Pötzsch, Die deutsche Demokratie:10ff
[41] Cf ARL (ed.), Planungsbegriffe in Europa, Deutsch-Schwedisches Handbuch der Planungsbegriffe, 157f
[42] Cf Katz, Staatsrecht, Rn. 509
[43] Cf Badura, Staatsrecht, D, Rn. 35, 301
[44] Cf Katz, Staatsrecht, Rn. 243
[45] Cf Katz, Staatsrecht, Rn. 243
[46] Cf Gesetz zur Änderung des Grundgesetzes of August 28th, 2006, BGBl. I 2034

2. The Political System

2.1. General Description of the Political System

As the preceding sections have shown, the Basic Law specifies representative democracy as the organising principle for government in the Federal Republic of Germany. State authority is not exercised directly by the people; they delegate it to elected, representative or parliamentary bodies.[47] At the federal level, the parliamentary body is the Federal Diet (*Bundestag*), in each state the state diet (*Landtag*), in counties the county council (*Kreistag*), in cities the city council (*Stadtrat*), in municipalities (*Gemeinden*) the municipal council (*Gemeinderat*).

These assemblies enjoy particular legitimacy, since they are the constitutional bodies directly chosen by the people.[48] The Deutscher Bundestag elects the Federal Chancellor, each Landtag elects the minister president of the given state. At the local government level, arrangements differ considerably depending on the applicable local government constitution.[49] But what they all have in common is that the representative body (by whatever name it is known, *Gemeinderat*, *Gemeindevertretung*, or *Rat*) is elected by the citizenry. Under the North German council constitution, for instance, the council is competent in all matters. It chooses its chairman, usually with the title of mayor (*Bürgermeister*) and the chief executive (*Gemeindedirektor*), who heads the administration. Under the South German council constitution, by contrast, both the council and the mayor are directly elected. The mayor is ex officio chairman of the council and head of the municipal administration as a public authority. [50]

Article 20 of the Basic Law stipulates the separation of legislature, executive, and judiciary. Over the past 50 years, the accent in relations between executive and legislature has shifted from a separation of powers to an "interlinkage of powers."[51] Apparently, the traditional tasks of government – defining government policy at the highest level and governing the country – are now, so to speak, carried out jointly by parliament and government.[52] Nevertheless, the classical tension between parliament and government persists to a certain degree in discharging governmental functions.[53] However, in constitutional reality, this dualism has clearly been more and more displaced by political cleavage between government/governing coalition and opposition.[54]

The power of the Federal Government is checked and controlled by:

- the opposition in the Bundestag,
- the federalism principle with the distribution of government functions and powers between federal, state and local government,
- the independent judiciary, especially the powers of the Federal Constitutional Court (*Bundesverfassungsgericht*) and
- public opinion.[55]

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47 Cf Katz, Staatsrecht, Rn. 149, 76
48 Cf Katz, Staatsrecht, Rn. 149, 76
49 The arrangements in force in non-city states include the North German and South German council constitutions (*Ratsverfassung*), the collegiate executive constitution (*Magistratsverfassung*), and the mayoral constitution (*Bürgermeisterverfassung*).
50 Cf details in Bundesakademie für öffentliche Verwaltung im Bundesministerium des Innern, Bonn/Bayerische Verwaltungsschule (eds.), Kommunale Selbstverwaltung. Handbuch der Internationalen Rechts- und Verwaltungssprache.
51 Cf Katz, Staatsrecht, Rn. 399
52 Cf Katz, Staatsrecht, Rn. 399
53 Cf Katz, Staatsrecht, Rn. 399
54 Cf Katz, Staatsrecht, Rn. 399
55 Cf Pötzsch, Die deutsche Demokratie, 67ff

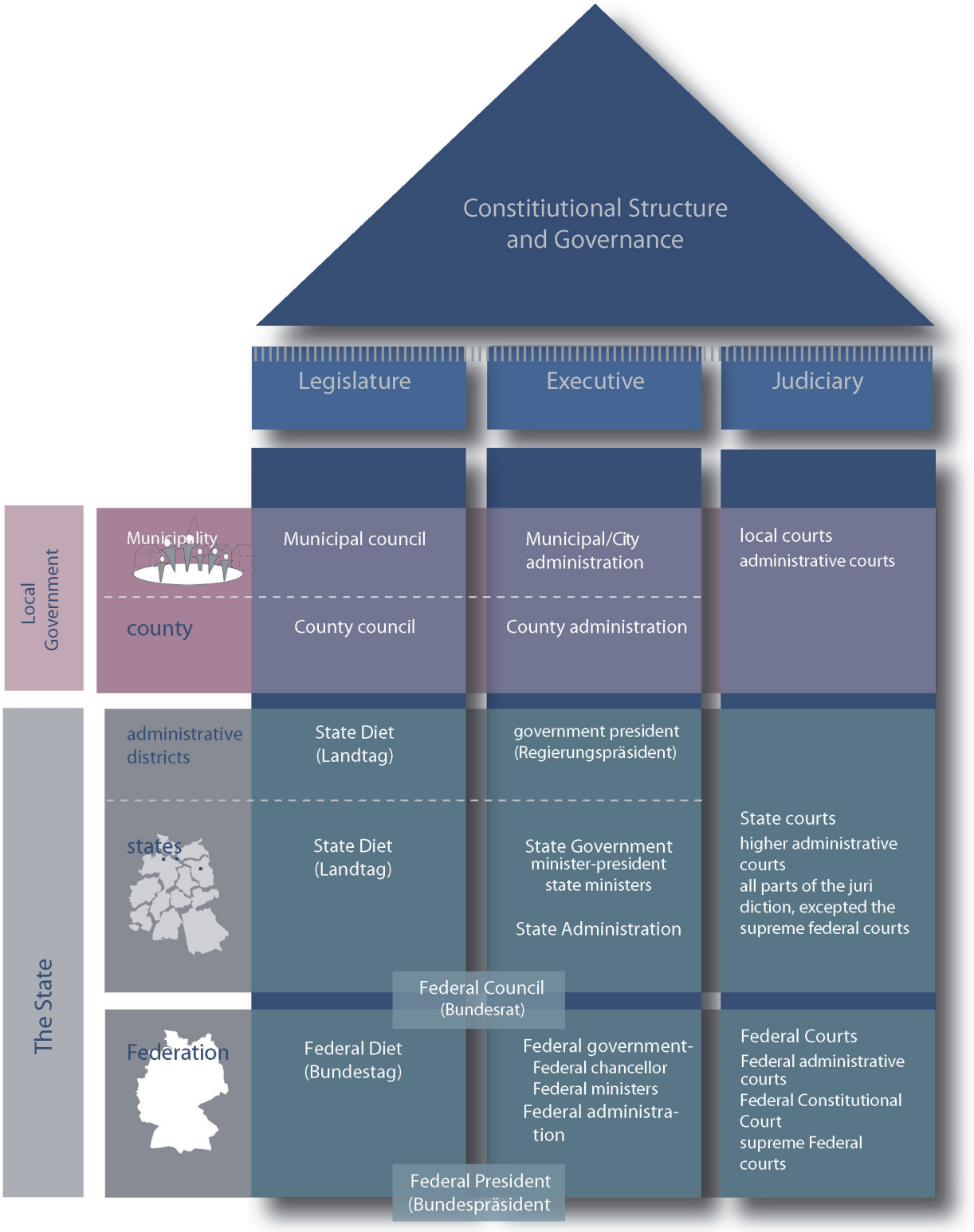


Figure I.2:System of seperation of powers and structure of administration of the Federal Republic of Germany (own illustration)

2.2. The Federal Level of the Political System

The constitutional bodies or institutions of the Federal Republic of Germany are:

- the Federal Diet (*Deutscher Bundestag*),
- the Federal Council (*Bundesrat*),
- the Federal President,
- the Federal Government and
- the Federal Constitutional Court.

Deutscher Bundestag (Federal Diet)

The Deutscher Bundestag is the parliament of the Federal Republic of Germany. It represents the German people in the exercise of state authority. It is the supreme popular representative body of the Federal Republic of Germany.

The Bundestag is elected by direct universal suffrage in a free and secret ballot for a four-year term. It has a statutory membership of 598.[56] As a rule, members of the Bundestag are organised in parliamentary groups (*Fraktionen*). The term is applied to a grouping of all the members of parliament who belong to one political party. A parliamentary group currently consists of at least 30 members.[57] The parliamentary work of the Bundestag is characterised by a division of labour. Much parliamentary work takes place in committees. The present, 16th Bundestag has 22 standing committees.[58] The job of these committees is to discuss bills and other initiatives, and thus to prepare the decisions of the Bundestag. In addition to the standing committees, which are constituted at the beginning of the legislative period, there are ad hoc committees set up from time to time for a special purpose, which are dissolved once that purpose has been fulfilled (e.g. committees of inquiry).

Membership of the committees is determined by the parliamentary groups in proportion to their numerical strength. Parliamentary groups prepare committee work in internal working circles and groups. [59]

The Bundestag chooses its president and vice-presidents from among its members (Article 40 (1) sentence 1 of the Basic Law). They form the Presidium of the Bundestag. The Council of Elders is composed of the Presidium and a further 23 members. It liaises between Presidium and parliamentary groups. The functions of the Bundestag President include representing the Bundestag, organising its business, and exercising proprietary and police powers.

The Bundestag elects the Federal Chancellor, exercises parliamentary control over the Federal Government, adopts the budget, and controls finances.

The Bundestag is the legislative body at the federal level. The legislative powers of the Federation and the states, as well as the requirement of Bundesrat assent for certain legislation were reorganised in the course of the so-called “federalism reform” in 2006.[60] The main changes include:

- the abolition of framework legislation (Article 75 of the unamended Basic Law),
- reorganisation of the catalogue of the Federation’s exclusive legislative powers,

[56] Cf Stein/Götz, Staatsrecht, 75
[57] Cf Badura, Staatsrecht, E Rn. 33
[58] Cf Pötzsch, Die deutsche Demokratie, 57ff
[59] Cf Stein/Götz, Staatsrecht, 75
[60] Grundgesetz für die Bundesrepublik Deutschland of May 23rd, 1949 (BGBl. 1949, 1), amended by statute on August 28th, 2006 (BGBl. I 2034).

- reorganisation of the catalogue of concurrent legislation in conjunction with a reduction in the area of application of the requirements clause under Article 72 (2) of the Basic Law and introduction of a derogation clause in certain areas of legislation,
- abolition of the assent rights of the Bundesrat pursuant to Article 84 (1) of the Basic Law and introduction of new cases requiring assent to federal legislation involving considerable costs for the states (Article 104a (4) of the Basic Law).[61]

Article 73, points 1 to 14 of the Basic Law lists the areas in which the *Federation* has *exclusive legislative powers* to regulate matters uniformly for all states. The main fields are foreign affairs; defence; border protection; currency, money, and coinage; matters relating to the registration of residence or domicile and to identity cards; air transport; and protection against international terrorism.[62] Article 72 (1) of the Basic Law gives the states the right to pass laws in matters of *concurrent legislation* as long as and to the extent that the Federation does not exercise its legislative powers. Among the pertinent areas listed under Article 74, points 1 to 33, are civil law, criminal law, economic and labour law, real property transactions, land law (except for laws respecting development fees), the law relating to housing benefit, the regulation of assistance with old debt, road transport, waste disposal, clean air and noise abatement, nature conservation and landscape management, spatial planning, civil service law, as well as admission to higher education, and higher educational degrees. While under the old legal conditions, the Federation had to furnish evidence of the necessity for regulation by federal law in all matters of concurrent legislation, the proof required under Article 72 (2) of the Basic Law (unamended) now applies only to matters listed in Article 74 (1) points 4, 7, 11, 13, 15, 19a, 20, 22, 25, and 26 of the Basic Law (unamended). If the Federation exercises its right of concurrent legislation, the states may legislate for deviating arrangements in the areas listed in Article 72 (3) points 1 to 6. They include spatial planning, land distribution, as well as nature conservation and landscape management (except for the general principles of nature conservation, the law relating to species conservation or marine nature conservation).

Bundesrat (Federal Council)

Through the Bundesrat or Federal Council, the states participate directly in the decision-making and legislative processes of the Federation ("Chamber of the States"). The federalism principle requires a governmental institution that both defends the interests of the constitutive states in the political and legislative decisions of the Federation and acts as a mediator and intermediary institution between the Federation and the states.[63] The Bundesrat is composed of members of state governments. Depending on their population, the 16 states delegate between three and six members to the council (Article 51 of the Basic Law). The minister presidents and ministers of the respective states can be members of the Bundesrat.[64] From the city states of Berlin, Hamburg, and Bremen, mayors and senators may be delegated. State secretaries can be members of the Bundesrat if they have cabinet rank. The votes of each state government must be cast en bloc. In contrast to members of the Bundestag, who exercise a free mandate, members of the Bundesrat are bound by the instructions of their state government and can be instructed on how to vote (imperative mandate).

The minister presidents of the states are each elected President of the Bundesrat in turn for a period of one year. His duties include convening and chairing plenary sessions. The President of the Bundesrat deputizes for the Federal President (Article 57 of the Basic Law).

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[61] Cf Bundesregierung, Bericht über die Auswirkungen der Föderalismusreform auf die Vorbereitung von Gesetzentwürfen der Bundesregierung und das Gesetzgebungsverfahren.
[62] Cf Katz, Staatsrecht, Rn. 425, 214
[63] Cf Katz, Staatsrecht, Rn. 369, 188f
[64] Cf Katz, Staatsrecht, Rn. 375, 190

The Presidium of the Bundesrat includes the President and three vice-presidents. The main tasks of the Presidium are the annual preparation of the budget and decision making on certain internal matters unless they are the concern of the plenum.

As in the Bundestag, much of the actual work of the Bundesrat is carried out in committees. For this purpose, the Bundesrat has set up 16 functional committees grouping the relevant ministers from each of the states.[65]

The constitutional status and importance of the Bundesrat is grounded essentially in its legislative rights, since certain laws require its assent. The Basic Law stipulates what categories of law are concerned. They include:

- laws amending the constitution, which require a two-thirds majority;
- federal laws dealing with government liability and with the status rights and duties of civil servants of the states, local authorities and other corporations under public law, and of judges in the states, with the exception of matters concerning careers, remuneration and pensions and related benefits (Article 74 (2) as amended);
- federal legislation regulating administrative procedures of the states without derogation options (Article 84 (1) sentences 5 and 6 of the Basic Law as amended; where derogation is possible and a state has adopted diverging provisions pursuant to Article 84 (1) sentence 2 of the Basic Law as amended, such provisions come into effect at the earliest six months after promulgation unless otherwise provided with the assent of the Bundesrat (Article 84 (1) sentence 3 of the Basic Law as amended;
- general administrative rules of the Federal Government (Article 84 (2) of the Basic Law;
- federal legislation that commits the states to cash and non-cash expenditures or comparable services for third parties, which is to be implemented by the states in their own right or on behalf of the Federation (Article 104a (4) as amended).

With respect to other legislation, the Bundesrat may enter an objection to a law adopted by the Bundestag, which can be overruled by a majority of the members of the Bundestag. If the Bundesrat adopts the objection by a majority of at least two thirds of its votes, its rejection by the Bundestag requires a two-thirds majority, including at least a majority of the members of the Bundestag (Article 77 (3) and (4) of the Basic Law).

The Bundespräsident (Federal President)

The Federal President is the head of state of the Federal Republic of Germany and represents the country at international law vis-à-vis other countries; foreign policy itself, however, is in the hands of the Federal Government.[66] Although the Federal President's functions are predominantly ceremonial, his neutral position allows him to help reconcile political interests and provide the citizens with guidance on socio-political issues.[67]

Apart from his ceremonial and external representative duties, the Federal President exercises certain other rights. However, he may do so only in collaboration with other constitutional institutions. His instructions and orders are valid only with the assent of the Federal Chancellor or the competent federal minister. They assume full political responsibility. The Federal President himself bears no direct responsibility. This applies with regard to:

- the signing of laws,

[65] Cf Pötzsch, Die deutsche Demokratie, 2004, 70ff
[66] Cf Badura, Staatsrecht, E Rn. 86, 508
[67] Cf Katz, Staatsrecht, Rn. 384, 195f

- the appointment of federal ministers,
- the appointment of federal judges, federal civil servants, officers and non-commissioned officers and
- the prerogative of pardon.[68]

The Federal President may act independently only in situations of crisis:

- If a candidate for the chancellorship fails to obtain an absolute majority on the third ballot, gaining only a simple majority, the Federal President may appoint him/her or dissolve the Bundestag to enable a new general election (Article 63 (4) of the Basic Law).
- If the Federal Chancellor obtains no majority on a vote of confidence, the Federal President may dissolve the Bundestag on the proposal of the Federal Chancellor.[69]

The Federal President is not directly elected by the people but by a Federal Assembly (*Bundesversammlung*) convened for this purpose alone. It consists of the members of the Bundestag and an equal number of members elected by the parliaments of the states on the basis of proportional representation (Article 54 (2) of the Basic Law). These delegates need not be members of a Landtag.[70] The 12th Federal Assembly, which met on May 23rd, 2004 and which elected the incumbent Federal President, had a membership of 1205.[71] Any German who is entitled to vote in Bundestag elections and has attained the age of forty may be elected Federal President (Article 54 (1) of the Basic Law). The person receiving the votes of a majority of the members of the Federal Assembly is deemed elected. If after two ballots no candidate has obtained such a majority, the person who receives the largest number of votes on the next ballot is elected (Article 54 (6) of the Basic Law). He is appointed for a term of five years. Reelection for a consecutive term is permitted only once (Article 54 (2) of the Basic Law).

Bundesregierung (Federal Government) and Bundeskanzler (Federal Chancellor)

Executive power is vested in the Federal Government.[72] The Federal Government handles the governmental and political business incumbent on the Federation.[73]

The action of the Federal Government is determined by three principles laid down by Article 65 of the Basic Law:

- • the chancellor principle,
- • the departmental principle and
- • the collegial principle.[74]

The Federal Government consists of the Federal Chancellor and the federal ministers. The Federal Government is a collegial body in which the Federal Chancellor occupies a prominent position because he or she determines and bears responsibility for the general guidelines of policy. This power lends the Chancellor the leading role in the cabinet, since he cannot be outvoted by a majority in the cabinet (chancellor principle).[75] Federal ministers manage the area of responsibility assigned to them independently and on their own responsibility within the fra-

[68] Cf Katz, Staatsrecht, Rn. 385ff, 196f
[69] Cf Badura, Staatsrecht:506 E Rn. 81
[70] Cf Badura, Staatsrecht, Rn. 382, 194f
[71] Cf Fehndrich, Martin, Die 12. Bundesversammlung 2004, www.wahlrecht.de/lexikon/ bundesversammlung-2004.html, 31.07.2006
[72] The concept "executive power" is not to be understood in the narrow sense of merely carrying out laws but in a broader sense as the sum of governmental and administrative activities. Cf Katz, Staatsrecht, Rn. 396, 200
[73] Cf Badura, Staatsrecht, E Rn. 89, 509f
[74] Cf Katz, Staatsrecht, Rn. 408, 205
[75] Cf Badura, Staatsrecht, E Rn. 90, 510

mework of the government policy guidelines set by the Chancellor (departmental principle).[76] The Federal Minister of Transport, Building, and Urban Development is responsible for spatial planning at the federal level.

The Federal Chancellor is elected by a majority of the members of the Deutscher Bundestag. If after two ballots no candidate has obtained a majority, the candidate winning the highest number of votes is elected. If the absolute majority is not obtained on the third ballot, the Federal President may dissolve the Bundestag and call new elections if he does not see fit to appoint the candidate thus elected. Federal ministers are appointed and dismissed by the Federal President upon the proposal of the Federal Chancellor.

The Federal Chancellor is accountable to the Bundestag. The Bundestag may express its lack of confidence in the Federal Chancellor only by electing a successor by the vote of a majority of its members and requesting the Federal President to dismiss the Chancellor. The Federal President must comply with the request and appoint the person elected (Article 67 (1) of the Basic Law). This process is termed a constructive vote of no confidence.

Bundesverfassungsgericht (Federal Constitutional Court)

The Federal Constitutional Court is both an independent constitutional body and part of the judiciary with competence for constitutional and international law. Its chief responsibilities are to assess the compatibility of federal and state law with the Basic Law, to decide conflicts between federal institutions or with the states, and to hear constitutional appeals brought by citizens or local authorities.[77] The work of the Federal Constitutional Court contributes to enhancing the reputation and effectiveness of the free democratic basic order, especially in enforcing basic rights. The decisions of the Federal Constitutional Court are binding on the constitutional institutions of the Federation and the states and on all courts and public authorities (Article 31 (1) of the Basic Law). Types of proceeding before the courts include constitutional appeal, concrete and abstract judicial review, inter-institutional disputes, disputes between the Federation and the states, and competence surrogation with respect to concurrent legislation.

The court is composed of two senates and six chambers with differing substantive competence. The Federal Constitutional Court consists of federal judges. Half the members of the court are chosen by the Bundestag and half by the Bundesrat. They may not be members of the Bundestag, of the Bundesrat, of the Federal Government, or of any of the corresponding institutions of a state. (Article 94 (1) of the Basic Law). They are appointed for a single term of 12 years. There is an age limit of 68 years. The judges wear scarlet robes with a white jabot.

The seat of the Federal Constitutional Court is Karlsruhe.

2.3. The State Level of the Political System[78]

In keeping with the federal principle of government, the states have their own constitutions and territories, as well as independent state power encompassing legislature, executive, and judiciary.[79] The federal principle is among the inviolable constitutional principles in Germany. However, the number and boundaries of states can be modified. The national territory can be

[76] Cf Katz, Staatsrecht, Rn. 410, 206
[77] Cf Badura, Staatsrecht, H Rn. 50, 692
[78] The common structure of the COMMIN Project provides for a description of the "regional level" of the political system in chapter I.2.3. It should be noted that the states (*Bundesländer, Länder*) are regions for European purposes (e.g. as EFRE programme areas (NUTS 1)), but, unlike regions in other European countries, they possess statehood, so that in German linguistic usage they cannot be referred to as regions. However, the concept *Region* is used in Germany for the planning areas subject to regional planning. These planning regions are situated between states and counties. There are considerable differences in their territorial extent and definition between the states (see chapter I.3.4).
[79] Cf Katz, Staatsrecht, Rn. 70, 28

reorganised pursuant to the Basic Law.[80] The creation of economically more efficient, larger states by restructuring the constitutive states of the Federation has therefore been a constant subject of discussion in Germany. The only measure so far taken in this direction has been to form the state of Baden-Württemberg from three smaller states (1952).[81]

The 16 states differ widely in population and size of territory. Whereas the three most populous states (North Rhine-Westphalia, Bavaria, and Baden-Württemberg) all have a population of well over 10 million, the city states of Bremen and Hamburg, as well as the non-city states of Mecklenburg-West Pomerania and Saarland have fewer than two million. The territory of the smallest non-city state, Saarland, is only 4 % the size of the largest, Bavaria.

The states perform the governmental functions assigned to them by the Basic Law and the state constitution. The focus of their activities is in the administrative field[82] and in their contribution to federal legislation, which they provide through the Bundesrat in respect of laws requiring the assent of the states.[83] From the constitutional point of view, local authorities form part of the states. The local government level, which is extremely important with regard both to its constitutional status ("local self-government") and its actual significance, for instance in the field of spatial planning ("local planning autonomy"), is dealt with in chapter 3.4.

Landtag (State Diet)

The legislative body of a state is the state parliament (known as *Landtag* in non-city states, as *Bürgerschaft* in the city states of Bremen and Hamburg, and *Abgeordnetenhaus* in Berlin).[84] The states have the right to legislate unless the Basic Law grants the Federation exclusive legislative powers or the Federation fails to exercise its right of concurrent legislation (cf details in chapter I.2.2.).

The state parliament is the representative assembly in the state. It is the only government institution that has direct, democratic legitimacy, in that it is elected by the people. Apart from legislation, the Landtag has the task of electing the Minister President and supervising the exercise of executive power by the state government.

Landesregierung (State Government)

The governments of the states (termed *Landesregierung*, except in Bavaria, Saxony, and Thuringia, where they are called *Staatsregierung* and in the city states of Berlin, Bremen and Hamburg where the name is *Senat*) consist of the Minister President (*Ministerpräsident*) and the ministers. The Minister President – or Governing Mayor (*Regierender Bürgermeister)* in the city states Bremen, Hamburg, and Berlin – is elected by the state parliament.[85] The Minister President/Governing Mayor is responsible for appointing and dismissing ministers, in some states with the assent of state parliament. Every state has a minister whose portfolio includes spatial and state spatial planning.

State Courts and Tribunals

State court systems usually have several tiers: e.g. ordinary courts: local court, regional court, higher regional court; or administrative courts: administrative court, higher administrative court.

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[80] Cf Badura, D Rn. 71, 339f
[81] Cf Badura, D Rn. 71, 339f
[82] Cf Stein/Götz, Staatsrecht, 109
[83] Cf Badura, Staatsrecht, F Rn. 50, 566
[84] Cf Stein/Götz, Staatsrecht, 142
[85] Cf Stein/Götz, Staatsrecht, 142

3. The Administrative System

3.1. General Description, History of the Administrative System and Key Data

In contrast to many other European countries, the Federal Government in Germany possess a local administrative machinery of its own in very few fields. As a rule, states and local authorities are responsible for administration. The Basic Law lays down that the exercise of governmental powers and the discharge of governmental functions is incumbent on the states except as otherwise provided or permitted by the Basic Law (Article 30).

The Basic Law distinguishes the following categories of administration:

- direct implementation of federal laws by the Federation (Article 86ff),
- implementation of federal legislation by the states on behalf of the Federation (Article 85),
- administration in joint responsibility (Articles 91a and 91b),
- implementation of federal legislation by the states in their own right (Article 83),
- implementation of state legislation by the states (Articles 30, 83ff).[86] [87]

3.2. Federal Administration

Since the states are primarily responsible for administration, the Federation has only a relatively thin network of administrative authorities throughout the country.[88] In the implementation of federal legislation by federal authorities, a distinction can be drawn between *direct federal administration* (*unmittelbare Bundesverwaltung*) for which the Federation sets up a system of public authorities, for some areas with its own substructures at all levels (e.g. foreign service, federal financial administration, federal police), and *indirect federal administration (mittelbare Bundesverwaltung)*, which is the implementation of laws by independent federal corporations or institutions established under public law. Use has been made of this system in the field of social security (e.g. Federal Agency for Employment or German Pension Insurance). The following section deals with the various levels of direct federal administration.

Supreme Federal Authorities

They include the Federal President, the Federal Chancellery (*Bundeskanzleramt*), the federal ministries, and the Federal Audit Office (*Bundesrechnunghof*).[89]

Higher Federal Authorities

Higher federal authorities are hived-off, autonomous and centralised government agencies responsible for the entire national territory. They are under the control of the competent federal ministry. Important higher federal authorities are the Federal Environmental Agency, the Federal Statistical Office, the Federal Motor Transport Authority, and Federal Office of Civil Aviation, and the Federal Armed Forces Administrative Office.[90]

Intermediate Federal Authorities

Intermediate federal authorities are subordinated to a supreme federal authority. They have ju-

[86] Cf Katz, Staatsrecht, Rn. 465
[87] The changes introduced by the 2006 federalism reform should be noted. Cf Grundgesetz für die Bundesrepublik Deutschland of May 23rd, 1949 (BGBl. 1949, 1), amended by statute on August 28th, 2006 (BGBl. I 2034).
[88] Cf Katz, Staatsrecht, Rn. 468
[89] Cf Katz, Staatsrecht, Rn. 468
[90] Cf Badura, Staatsrecht, G Rn. 73ff, 633

risdiction over only part of the national territory.[91] Important intermediate federal authorities are regional finance offices, military district offices, and regional waterways and shipping directorates.

Lower Federal Authorities

Lower federal authorities are subordinated to higher and intermediate federal authorities. They are competent for an even more limited section of the national territory within the responsibility of the superior authority.[92] Examples are principal customs offices and district draft boards.

3.3. State Administration

At the state level, the following constellations can be distinguished: *delegated federal administration* (or *state administration on behalf of the Federation*) provides for the states to discharge administrative functions for the Federation. In spatial planning, the most important example of delegated federal administration is the planning, building, and maintenance of federal motorways and highways. *State administration,* in contrast, is concerned with *carrying out state laws* and *carrying out federal laws* that do not as a rule belong to a different type of administration. The states discharge these functions in their own right. Administrative competence and structures in the states, as at the federal level, are extraordinarily differentiated from a legal, organisational, and material point of view because administration is organised by the states themselves. *State administration* performs tasks within the exclusive remit of the state.[93] This is the case with schools, the police, and state spatial planning. Moreover, most federal laws are also carried out by the state in its own right and responsibility. This is the case for urban planning law, industrial law, and for much of environmental law.

Organisational Aspects

Administrative structures in the states are characterised by collaboration between public authorities (direct public administration) and local autonomous agencies (indirect public administration).[94]

The *highest level of general public administration* is constituted by state ministries with their specific areas of responsibility (e.g. finance, economics, justice).[95]

The *intermediate level of public administration* in most states is entrusted to administrative districts, termed *Regierungsbezirke*. With the exception of the city states and smaller non-city states like Brandenburg, Mecklenburg-West Pomerania, and Saarland, the states have divided their territory into such administrative districts each with a district authority (*Regierungspräsidium*.)[96] These district authorities (called *Bezirksregierung* in some states) discharge all functions in the district not entrusted to special purpose authorities. District authorities are responsible for horizontal coordination, as well as vertical mediation and supervision functions between ministries and both lower state authorities and local authorities/municipalities. This intermediate authority is headed by a chief executive with the title of *Regierungspräsident*. Among the major functions of the *Regierungspräsidium* is state spatial planning.

The *lower level of public administration in the states* is formed by counties (*Landkreise*) each under a county administration (*Landratsamt* or *Kreisverwaltung*) or the mayor's offices

[91] Cf Katz, Staatsrecht, Rn. 468, 233
[92] Cf Katz, Staatsrecht, Rn. 468, 233
[93] Cf Katz, Staatsrecht, Rn. 472, 235
[94] Cf Badura, Staatsrecht, G Rn. 52ff, 617ff
[95] Cf Badura, Staatsrecht, G Rn. 53, 617
[96] Lower Saxony, however, a relatively large non-city state has recently abolished these intermediate authorities

(*Bürgermeisterämter*) of county-free cities (*kreisfreie Städte*). In these county-free cities, which are generally cities with a population of over 100,000, the county and municipal level coincide. Some governmental functions are discharged by the mayor's office of major county towns (*große Kreisstädte*). A *große Kreisstadt* is a larger town or city forming part of a county. If, in its capacity as a lower administrative authority, it performs government functions (e.g. as building authority), it is bound by instructions and subject to functional supervision by the district authority (*Regierungspräsidium*).[97]

In addition to the general state administration outlined above (district authorities and counties), there are special public authorities at the intermediate and lower levels of administration with various degrees of specialisation (e.g. state school authority with central and local supervisory boards (*Oberschulamt* and *Schulamt*)). In this context, too, various models of administrative organisation have been adopted by the different states.

3.4. Local Self-Government

At the local government level, a distinction is to be drawn between territorial authorities (*Gebietskörperschaften*) and other local bodies. Territorial authorities are bodies governed by public law with jurisdiction over their territory. Territorial authorities include municipalities forming part of a county (*kreisangehörige Gemeinden*) and county-free cities (*kreisfreie Städte*). In contrast, counties, districts, and other local authorities discharge functions assigned to them either by statute or bye-law.

Municipalities (*Kommunen*), as corporate local self-governing bodies, have the right to manage all the affairs of the local community on their own responsibility within the limits set by law (self-government tasks). In this respect they are exempt from direction and subject only to supervision limited to the question of the legality of administrative activities.[98] Over and beyond this, they are required to perform certain functions on behalf of the federal and state governments (delegated functions).

Municipalities/Local Authorities: Number and Structure of Local Authorities in Germany

Germany contains over 13,000 local authorities. In the 117 county-free cities in Germany, the municipality and county coincide. Around one third of Germany's population live in such independent cities. The size of local authorities varies considerably, depending on differences in settlement structure and in state policy on merging communities (local authority territorial reorganization). Thus, North Rhine-Westphalia, with a population of 18 million, has just under 400 local authorities, whereas Rhineland-Palatinate, with 4 million inhabitants, has over 2,300.[99]

Local Authority Functions

From a legal point of view, a distinction can be made in terms of the degree of responsibility and autonomy that local authorities enjoy in assuming and discharging functions:[100]

- In the first place, they are concerned with the affairs of the local community, with respect to which the local authority acts within its own remit (self-government tasks). So-called "self-government tasks" can be matters that a local authority is under obligation to handle (mandatory functions) – like urban land-use planning – or non-mandatory functions with regard to which

[97] Cf Badura, Staatsrecht, G Rn. 53, 617
[98] Cf Badura, Staatsrecht, D Rn. 92, 356f
[99] Cf Wehling/Kost, Kommunalpolitik in der Bundesrepublik Deutschland – eine Einführung, in Wehling/Kost (eds.), Kommunalpolitik in den deutschen Ländern, 14f
[100] Cf Schmidt-Eichstaedt, Städtebaurecht, 42

the local authority decides itself whether or not to take action – like culture or sport. To ensure the effective performance of their autonomous functions, municipalities have the right to adopt bye-laws as generally binding legislation for managing the affairs of the community.[101]

- In second place, there are delegated functions, i.e. federal or state government functions that the local authority discharges on behalf of these higher levels of government. Such tasks are delegated functions or mandatory functions to be performed as directed.

In performing self-government tasks, local authorities are subject only to supervision of the legality of these administrative activities, while delegated functions and mandatory functions to be performed as directed are also subject to functional or special supervision.[102]

Local Government Finance

Local government revenue comes primarily from taxes, charges, and contributions, and from federal and state government allocations. The importance of the various sources of income differs in West and East Germany. Whereas the most important source of revenue for West German local authorities in 2005 was taxes, which provided 40 % of income, the most important source of revenue in East Germany was federal and state government allocations, which made up no less than 60 % of local authorities' revenues.[103] The most important source of income for local authorities is trade tax (*Gewerbesteuer*), which is levied on the earnings of businesses in the community, and the local authority share in income tax levied by the Federal Government, which is distributed in terms of the taxpayer residence. With respect to both trade tax and real property tax, local authorities have the right to set their own assessment rates. In view of the two most important sources of tax revenue, local authorities can benefit both from flourishing businesses (trade tax) and affluent residents (local authority share of income tax). A system of local financial equalisation between the local authorities of a state (horizontal financial equalisation) and between local authorities and the state (vertical financial equalisation) ensures a certain harmonisation of local financial strength.

Administrative costs (personnel and material) were the biggest item of expenditure (some 50 %) in 2005 in both West and East Germany. The second biggest expenditure item (25 %) was social security. Spending on fixed assets currently accounts for 12 % of expenditure by local authorities in West Germany and 16 % in East Germany.[104]

Local Government Constitutions

The institutions of local authorities and their powers are determined by local government constitutions or local government acts. For historical reasons, they differ considerably from state to state. In the 1990s, however, major moves towards harmonisation were undertaken. Common to all states is the basic structure of local government with a local representative assembly (local council) elected by residents (*Gemeinderat*/*Stadtrat*), which is the political decision-making body, together with a local administration (*Kommunalverwaltung*) headed by a mayor (*Bürgermeister*, and in large cities *Oberbürgermeister*). In the majority of states, the mayor is both chairman of the local council and chief executive of the administration. A few states restrict the functions of the mayor to heading the administration, providing for separate leadership of the council (e.g. Brandenburg, Mecklenburg-West Pomerania, Lower Saxony).

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[101] Cf Badura, Staatsrecht, D Rn. 93, 360f
[102] Cf Schmidt-Eichstaedt, Städtebaurecht, 42f
[103] Own calculations on the basis of Karrenberg/Münstermann, Gemeindefinanzbericht 2005, in: Der Städtetag, Heft 5, 2005, 13ff
[104] Cf Karrenberg/Münstermann, Gemeindefinanzbericht 2005, in: Der Städtetag, Heft 5, 2005, 13ff

Local Administrative Organisation

The following figure provides an overview of the individual areas of responsibility in German local public administration. The division of the administrative apparatus into separate departments, sections, and offices depends on the size of the community in question. Generally speaking, the local council and local administration are the institutions which provide the citizenry with solutions for the problems directly affecting them and which deliver the most necessary services. It is becoming more and more apparent that the growing need for regional coordination in spatially relevant planning and activities is tending to shift major decision-making from the local level to the regional, state, or even national level. Local authorities therefore find themselves increasingly caught between local government autonomy and the necessity to comply with or take account of supra-local planning projects.

Groupings of Local Authorities

In some states, a number of local authorities can collaborate in a joint organisation to perform administrative functions. These associations of local authorities differ in name from state to state: *Verwaltungsgemeinschaft, Samtgemeinde, Verbandsgemeinde,* or *Amt*. The so-called *Amtsgemeinde* model found favour particularly in the new states of East Germany with their very small-scale local authority structures (e.g. Brandenburg). It offers a fitting combination of community democratic structures (small municipalities with their own local council) and adequate administrative resources (an administrative authority serving several associated municipalities). The competencies of municipalities can be transferred voluntarily (Section 203 (1) of the Building Code) or by force of law (Section 203 (2)) to another territorial authority or association, or to united municipalities, associations of administrations or other comparable statutory groupings of local authorities charged under state law with the discharge of autonomous local government functions. Section 204 of the Building Code provides for joint preparatory land-use plans and urban land-use planning in the context of planning associations and in the event of local government reorganisation. Section 205 of the Building Code provides for the creation of planning associations. Section 9 (6) of the Federal Spatial Planning Act provides for joint preparatory land-use plans.

Counties

The 323 counties in Germany are territorial authorities with the right of self-government provided that their autonomous functions have been transferred to them by law or bye-law. The territory of a county encompasses a number of municipalities (*kreisangehörige Gemeinden*). The county performs functions beyond the administrative and financial capacity of smaller municipalities (e.g. hospitals, vocational training schools, special schools), or where supra-local arrangements are in the nature of the task, as in the construction of county roads or for public transport. On the other hand, counties, being lower administrative authorities, are also charged with government tasks assigned to them by law. The administrative institutions of a county are the county council (*Kreistag*), the popularly elected political decision-making body, and the chief executive or county administrator, the *Landrat*. The Landrat is both chairman of the county council and head of the county administration. County constitutions can differ considerably from state to state. For instance, in some states the Landrat is directly elected by the people and in others he or she is chosen by the county council. The names of bodies also differ.

3.5. Further Information on the Administrative System and Links between the Different Levels and Institutions

Administrative Reform

Reform for all levels of administration has been under discussion mainly since the early 1990s. One issue – especially at the state level – has been the concentration or decentralisation of public authorities and administration, another – in which local authorities have played a pioneering role – has been the introduction of business-management models of administrative control with the aim of improving efficiency ("New Public Management"). In recent years, many local authorities have reformed administration, cutting staff, and spinning off or privatising divisions. This process is not yet at an end and, given the tight financial situation of many local authorities, is likely to intensify.

Financial System

The federal system of the Federal Republic of Germany requires the appropriate sharing of fiscal autonomy between the Federation and the states. Basically, the Federation and the states each have to bear the costs incurred in discharging their functions. In the case of functions delegated to the states, the Federation bears the costs. If the states implement federal legislation that involve expenditure, the participation of the Federation can be required by law. In the overall interests of the economy, the Federation can grant the states financial aid for particularly important investments by states, counties, and local authorities. The distribution of tax revenue between Federation, states, and local authorities is a central problem crucial for the survival and functioning of the entire governmental system. The sharing of proceeds from taxes and other levies between Federation, states, and local authorities (vertical financial equalisation) and equalisation between financially strong and financially weak states (horizontal financial equalisation) are accordingly issues that causes frequent political controversy. Particularly affected is the local level, for municipal income from taxes and charges is far from sufficient to cover local authorities' financial needs, so that they depend on compensation from higher levels of government. Overall, this is an unsatisfactory state of affairs and an increasing threat to local government autonomy.

Local Government Umbrella Organisations

Local authorities have no direct co-decisional competence at the state or federal level. However, via their umbrella organisations, local authorities play a role in policy making (e.g. through participation in hearings on state and federal bills). Local government umbrella organisations are voluntary groupings which defend the interests of local authorities vis-à-vis state and Federal Government. They include:

- the German Association of Cities and Towns (*Deutscher Städtetag*), grouping major cities,
- the German County Association (*Deutscher Landkreistag*) and
- the German Association of Towns and Municipalities (Deutscher Städte- und Gemeindebund), grouping smaller and medium-sized communities.

II. Planning System

1. The Planning System in General

1.1. The History of the Building Law

Development of Building Law up to 1945[105]

Building law was largely codified at the state level in the second half of the 19th century and has since been supplemented and further developed by state and federal legislation. The following account deals with developments in Prussia. The present substantive and organisational division of German building law into building control law and building planning law is based essentially on local law and on the Prussian Code, the General Law for the Prussian States (Allgemeines Landrecht für die preußischen Staaten – prALR) of 1794 (hereinafter ALR). From Section 65 (1) sentence 8 of the ALR, which gave every owner a general right to cover his land with buildings or to alter a building, the principle of the freedom to build was developed under the influence of the emerging liberalism of the 19th century, although this right was restricted by various provisions.[106] The courts then interpreted the provision to mean that it served only to ward off dangers.[107] The separation of streets and public squares from other land, i.e. the setting of building lines was regulated by Section 66 (1) sentence 8 of the ALR and was considered a police task.[108] The right to collaborate in setting building lines was granted local authorities only in 1855.[109] The police concept of Section 10 of the ALR provides the basis for the issue of building regulations in the form of police bye-laws. Building regulations settled only what was absolutely necessary to protect public safety and order.[110]

In reaction to industrial development, the enormous increase in population, and the consequent urban expansion after 1870, the "Act relating to the Laying Out and Alteration of Streets and Public Squares in Cities and Rural Communities" or Building Line Act (*Fluchtliniengesetz*) was adopted on July 2nd, 1875. The act gave local authorities competence with regard to building lines for streets, expropriation of land for public thoroughfares and compensation, as well as for building prohibitions and frontager contributions.[111] The Building Line Act introduced autonomous urban development law, for the transfer of building line planning to local authorities divided building regulation substantively and organisationally into two fields: urban development and building police.

Neither the 1794 Prussian Code, nor precautionary police regulations or the consequent building regulations, nor the Act against the Disfigurement of Outstanding Landscape Areas of June 2nd, 1902 or the Act against the Disfigurement of Communities and Outstanding Landscape Areas of July 15th, 1907 produced a uniform urban development law. The manifest shortcomings in urban development of cities, the precipitous growth of cities clearly demonstrated the need for a two-stage planning system for the municipal and settlement area. The notion of

[105] Cf for detailed treatment Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB:Einleitung 1-45
[106] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Rn. 4.
[107] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Rn. 4.
[108] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Rn. 4.
[109] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Rn. 5.
[110] Cf Jaeckel; Die Entwicklung des Baurechts in Berlin seit der Jahrhundertwende, in: Berlin und seine Bauten, Teil II, Rechtsgrundlagen und Stadtentwicklung, 11/12
[111] Cf Schmidt-Eichstaedt, Städtebaurecht, 80ff

large-scale inter-municipal planning (state spatial planning) was given first legislative expression in an act on the Ruhr Regional Planning Authority passed on May 5th, 1920.[112]

Major advances in Prussian building law were achieved with the Prussian Housing Act of March 28th, 1918, which eliminated obvious weaknesses in the Building Line Act and added urban planning and design elements to building control law. The Prussian Housing Act permitted the gradation of building development and the designation of specific land-use areas. But it also failed to meet the demand for comprehensive building law.

During the Weimar Republic (1919-1933), the drafting of a Reich Urban Development Act was under discussion, but political events prevented the project from coming to fruition.

During the Third Reich, from 1933 to 1945, codification efforts continued. On the basis of the comprehensive legislative powers vested in the Reich, the Reich Ministry of Labour drafted a German Building Code, which aimed to combine building police law and building law. The war prevented any progress on the draft legislation. Instead, numerous isolated amendments were introduced in sections of building law. Reich legislation between 1933 and 1945 also proved unable to develop a uniform system of urban development law. However, the establishment of the Reich Office for Regional Planning in 1935 offered an opportunity for state spatial planning throughout the country.

Development of Building Law after 1945[113]

Massive destruction of cities, towns, and villages during the Second World War and the influx of refugees and expellees confronted local authorities with immense urban development problems. The building law arrangements inherited from the past proved completely inadequate to the task. Since, in the prevailing constitutional situation (the Federal Republic was founded only in 1949) there were neither legislative nor executive institutions at the national level, the states had no choice but to regulate building development matters within their territories themselves. Before reconstruction and reorganisation of the devastated towns and cities could begin, the rubble had to be removed and recycled. In 1948 and 1949, the states, with the exception of Berlin and Bremen, passed “rubble acts” for this purpose, along with reconstruction acts to control building development in towns and cities. The reconstruction acts dealt with urban planning, land reallocation, and building development. The law hitherto in force largely continued to apply in conjunction with reconstruction legislation. After the relevant institutions of the Federal Republic of Germany had been created and had taken up their work, a Federal Ministry for Housing addressed the establishment of country-wide building law bringing together and developing existing state law.[114] Given that the unification of building law would be a protracted process, the Building Land Procurement Act was passed to deal with the urgent problems of obtaining land for development.[115] The act provided for the expropriation of land for housing, for garden and cultivation purposes, for ancillary structures, and for public amenities.

The opinion handed down by the Federal Constitutional Court[116] on June 16th, 1954 recognised the competence of the Federation to regulate urban planning, building land reallocation, realignment and replotting, real property transactions, provision of public services, and land valuation. It also recognised the exclusive legislative competence of the Federation for federal planning and concurrent framework legislative powers in outline state spatial planning. State jurisdiction in building control law (building regulations) was recognised.

[112] Cf Schmidt-Eichstaedt, Städtebaurecht, 87
[113] Note: The development of building law in the German Democratic Republic is not dealt with.
[114] Cf for detailed treatment Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Rn. 51ff
[115] Gesetz über die vorläufige Regelung der Bereitstellung von Bauland (Baulandbeschaffungsgesetz) of August 3rd, 1953 (BGBl. I 720).
[116] Cf BVerfGE 3, 407

The different legislative powers provide the basis for the distinction between spatial planning law, urban planning law, and building control law within public building law.[117]

Spatial Planning and State Spatial Planning

After the Second World War, spatial planning and state spatial planning were materially and formally revised and integrated into the national planning system.

In the 1954 expertise of the Federal Constitutional Court mentioned above, the competence of the Federation for spatial planning was recognised owing to the very nature of the task.[118] After considerable preparation,[119] the Federal Spatial Planning Act (*Raumordnungsgesetz – ROG*) was adopted on April 8th, 1965. The states established the legal basis for state spatial planning within the framework of the act. An extensively amended version of the act[120] came into force on January 1st, 1998. The Federal Spatial Planning Act contained four subdivisions. Subdivisions 1, 2, and 4 were directly applicable throughout the country, and subdivision 3, owing to the rules on legislative powers applicable at the time, provided framework rules for spatial planning in the states.[121] Deadlines were set for transposing these federal provisions into state law.[122] With the introduction of the sustainability principle, the tasks, guidelines, and guiding principles of spatial planning were detailed,[123] and the mutual feedback principle spelled out (Sections 1 and 2 of the Federal Spatial Planning Act).[124] Furthermore, the concepts, substance, and binding effects of spatial planning (Sections 3 to 9) were defined in detail and the possibility of prohibiting planning and measures contravening spatial planning for an unlimited period was introduced (Section 12), as well as the option of regional preparatory land-use planning (Section 9 (6)). Spatial planning procedures were also reorganised (Section 15) and, in the newly amended Spatial Planning Ordinance (*Raumordnungsverordnung – ROV*) the projects subject to spatial planning procedures were enumerated.[125]

In 2004 the scope of the Federal Spatial Planning Act was extended and henceforth to cover the German Exclusive Economic Zone (EEZ). This step enables the federal government to develop a federal marine spatial planning concerning the economic activities and scientific research, the safety and efficiency of shipping and the protection of the marine environment.

Section 3 of the Act to Improve Preventive Flood Control[126] broadened the scope for flood prevention under Section 7 (2) sentence 1 no. 2 and Section 3 sentence 2 no. 5 of the Spatial Planning Act. At present a legislative procedure is in progress to change the Federal spatial planning act.

Urban Development Law

It was not until adoption of the Federal Building Act (*Bundesbaugesetz*) on June 23rd, 1960 that a uniform regulation of urban development law was achieved to replace arrangements encompassing many isolated laws on specific matters. The Federal Building Act created a system of building law that could do justice to the objectives of modern urban development. It conclusively regulated the delimitation of functions between spatial planning, urban planning, and building control law/building regulations, as well as the differentiation between local self-

[117] Cf Entwurf eines Baugesetzes, Schriftenreihe des Bundesministers für Wohnungsbau: Bd. 9, 15ff
[118] Cf Runkel, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Anhang Rn. 34
[119] For detailed treatment see Runkel in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB:Einleitung Anhang Kap II.
[120] Article 2 of the Gesetz zur Änderung des Baugesetzbuchs und zur Neuregelung des Rechts der Raumordnung (Bau- und Raumordnungsgesetz 1998 – BauROG, August 18th, 1997, BGBl. I 2081)
[121] Cf Runkel, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Anhang Rn. 86
[122] Cf Section 22 ROG.
[123] Cf Runkel, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Anhang Rn. 90
[124] Cf Runkel, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Anhang Rn. 93
[125] Cf Schmidt-Eichstaedt, Städtebaurecht, 88
[126] Gesetz zur Verbesserung des vorbeugenden Hochwasserschutzes of May 3rd, 2005 (BGBl. I 1224)

government and direct administration by higher levels of government (Federation and state) in urban planning.[127]

The Federal Building Act required local authorities to organise and control urban development through urban land-use planning in conformity with of federal spatial planning and state spatial planning.[128] The Federal Building Act was supplemented by the Plan Notation Ordinance[129] and the Land Utilisation Ordinance.[130]

The Plan Notation Ordinance was introduced to standardise plans in urban land-use planning. The Land Utilisation Ordinance, which came into force in 1962, and which has since been amended several times to take account of current developments,[131] enumerates general and specific categories of land use and sets rules for determining the intensity of built use, building method and design, and permissible lot coverage. This has standardised the urban land-use plans prepared by local authorities.

Once major reconstruction in the war-damaged cities had been achieved under the regime of state reconstruction and rubble acts (1945-1960), in particular restoration of the technical infrastructure and the provision of urgently needed housing, the nation-wide regulation of urban land-use planning and urban development began, the model espoused being that of the dispersed and structured city. This phase of urban development from 1960 to 1977 guided by the Federal Building Act produced *large-scale housing estates*, new development on the urban fringes (outer development), *extensive remedial measures* ("comprehensive rehabilitation") in Gründerzeit neighbourhoods, and extension of the road transport system.[132]

Even while the Federal Building Act was being drafted, it was recognised that the tools it provided for rehabilitating dilapidated areas, for developing the edges of agglomerations, and for building new towns were inadequate.[133] After a prolonged legislative procedure, the Federal Building Act was supplemented in 1971 by the Urban Development Promotion Act.[134]

From the mid-1970s, urban development was influenced by shifting societal values and by consequent changes in urban-development models.[135] These changes found expression in amendments to the Federal Building Act in 1977 and 1979. Other important factors for urban development were a declining birth rate, slower growth, increasing maintenance costs for infrastructural facilities, higher energy costs, continued restructuring in industry and commerce, and stricter statutory requirements for *environmental protection and nature conservation*. This required urban planning policy to improve the quality of housing and the residential environment, and to address inner development by better safeguarding industrial and commercial uses in mixed-use areas. To this end, the tools provided by the Federal Building Act were supplemen-

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[127] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung 45-72

[128] Cf Wambsganz, Ludwig; Die Umstellung der bisherigen städtebaulichen Planung auf die Bauleitplanung des Bundesbaugesetzes, in: Göderit (ed.), Das Bundesbaugesetz und andere aktuelle Probleme des Städtebaus und Wohnungswesens, Schriftenreihe der deutschen Akademie für Städtebau und Landesplanung

[129] Verordnung über die Ausarbeitung der Bauleitpläne und sowie über die Darstellung des Planinhalts – Planzeichenverordnung – October 9th, 1965 (BGBl. I 121). The Plan Notation Ordinance was last amended by ordinance of December 19th, 1990 (BGBl. I 58)

[130] Verordnung über die bauliche Nutzung der Grundstücke Baunutzungsverordnung – BauNVO, 26 June 1962 (BGBl. I 132). The ordinance was amended on several occasions, most recently by Section 2 of the Investment Facilitation and Housing Land Act (Gesetz zur Erleichterung von Investitionen und der Ausweisung und Bereitstellung von Wohnbauland) of April 22nd, 1993 (BGBl. I 466)

[131] On the development of the ordinance, see Fickert/Fieseler, Baunutzungsverordnung, 1-16

[132] For a critical discussion of the development of urban development models from 1960 see Bodenschatz, Berlin im Jubiläen-Rausch, in: Stadtbauwelt 48 of December 23rd, 1988:2146ff and Bodenschatz, Berlin West: Abschied von der steinernen Stadt, in: von Beyne, Klaus (ed.), Neue Städte aus Ruinen: Deutscher Städtebau der Nachkriegszeit, 75f

[133] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung Rn. 100

[134] Gesetz über städtebauliche Sanierungs- und Entwicklungsmaßnahmen in den Gemeinden (Städtebauförderungsgesetz – StBauFG) as promulgated on August 18th, 1976 (BGBl. I 2318); it has since been incorporated in amended form in the Building Code

[135] On changes in models see Kaiser, Reinhard; Global 2000; see also Strohm, Holger; Friedlich in die Katastrophe; von Weizsäcker, Richard, Zukunftsaufgaben der Stadtentwicklung, in BAU Handbuch, 91ff

ted by comprehensive planning (master/development planning), by greater public involvement, social compensation procedures, requirements to take account of environmental interests, and targeted tools for attaining planning objectives.[136]

In 1986, the Federal Building Act and the Urban Development Promotion Act were combined into the Federal Building Code,[137] thus bringing together the whole of urban planning law. At the same time, urban planning concentrated more strongly on *inner development*, and greater attention was given to *environmental protection and the conservation of historic monuments*.[138] In order to remedy the housing shortage and in reaction to the withdrawal of the Federation from publicly-assisted housing, the Administrative Measures Act to Supplement the Building Code was passed on May 17th, 1990.[139] To overcome the tight situation on the housing market prevailing at the time, obstacles to obtaining and designating housing land were to be eliminated and building permission for housing facilitated.

Prior to the reunification of Germany in 1990, the Building Planning and Permission Ordinance[140] was passed for the new states entering the Federation, which contained parts of the Building Code, as well as special provisions on comprehensive spatial planning and state spatial planning and new instruments like the project and infrastructure plan.[141] This ordinance initiated the step-by-step introduction of West German urban planning law in East Germany.[142] This was necessary because the legal and economic basis for urban development planning in the German Democratic Republic differed fundamentally from that in the Federal Republic.[143]

Since the 3rd October 1990, the Federal Building Code, the Land Utilisation Ordinance, Valuation Ordinance, the Plan Notation Ordinance, and, until 31st December 1997, the Administrative Measures Act to Supplement the Building Code have applied throughout the territory of the Federation. This legislation provided for numerous transitional arrangements for the new states.[144] The many amendments and special provisions produced a cleavage between building and planning law in West and East Germany.[145] The lacking reserves of building land in agglomerations and investment disincentives in the provision of land for development led in May 1993 to adoption of the Investment Facilitation and Housing Land Act[146]

The Federal Building Code was amended in 1996 to improve conditions for the authorisation of renewable energy,[147] and projects for the research, development, and use of wind and water power were added to the catalogue of privileged projects under Section 35 (1) no. 6 of the Building Code (since 2004 no. 5). To improve controls under Section 35 (1) nos. 2 to 6 of the Building Code, Section 35 (3) adds provisos.[148]

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136 Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB:Einleitung 114-139
137 Baugesetzbuch –BauGB, as promulgated on September.23rd, 2004 (BGBl. I S. 2414, last amended by Art. 3 of the Act of September 5th, 2006 (BGBl I 2098)
138 Cf Krautzberger, Das Baugesetzbuch 1987, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB:Einleitung 145-160
139 Gesetz zur Erleichterung des Wohnungsbaus im Planungs- und Baurecht sowie zur Änderung mietrechtlicher Vorschriften of May 17th, 1990 (BGBl. I 926) contains the Maßnahmengesetz zum Baugesetzbuch (BauGB-MaßnahmenG) in Article 2. This act was in force until December 31st, 1997
140 Verordnung zur Sicherung einer geordneten städtebaulichen Entwicklung und der Investitionen in den Gemeinden (Bauplanungs- und Zulassungsverordnung – BauZVO) of June 20th, 1990 (GBl. der DDR I Nr. 45, 739); it came into force on July 31st, 1990
141 Cf Krautzberger, Einführung der BauZVO, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB Kommentar, Einleitung 167-171
142 Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Rn. 164
143 Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Rn. 165 with further references
144 Cf Einigungsvertrag, act of 23 September 1990, BGBl. II 885, Anlage I Kapitel XIV 11.1.5.1122
145 Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung 179-189
146 Gesetz zur Erleichterung von Investitionen und der Ausweisung und Bereitstellung von Wohnbauland (Investitionserleichterungs- und Wohnbaulandgesetz) of April 22nd, 1993 (BGBl I 466)
147 Gesetz zur Änderung des Baugesetzbuchs vom July 30th, 1996 (BGBl. I 1189)
148 Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB:Einleitung Rn. 190

The Building and Spatial Planning Act 1998[149] unified the Federal Building Code and spatial planning law across West and East Germany, and the provisions of the Administrative Measures Act to Supplement the Building Code were incorporated in the Building Code. The changes to the Federal Building Code and in spatial planning introduced between 1990 and 1998 were motivated by a national awareness of the need for advancing and adapting building law to meet new objectives in urban planning and to further the reunification of the country.[150]

The amendments to the Federal Building Code in 2001 and 2004[151] were introduced essentially to adjust national law to the *requirements of EU law*. Thus, the Federal Building Code was amended by the Act of July 27th, 2001 (BGBl. I 1950) implementing the EIA Amending Directive, the IPPC Directive[152] and other EC environmental protection directives.[153] These amendments brought environmental impact assessment for certain binding land-use plans within the purview of the Building Code. The Federal Building Code was again comprehensively amended by the European Law Adaptation Act for the Construction Sector[154] on June 24th, 2004. Amendment was required to transpose Directive 2001/42/EC of the European Parliament and the Council of June 27th, 2001 on the assessment of the effects of certain plans and programmes on the environment in German urban development and spatial planning law.[155] The transposition of this EU Directive was carried out in parallel by the Act on Environmental Impact Assessment (*Gesetz über die Umweltweltverträglichkeitsprüfung – UVPG*) and other specific acts. The European Law Adaptation Act for the Construction Sector made further amendments and introduced new elements into general and special urban planning legislation.[156] With the aim of reducing land take and speeding up important planning projects, especially in safeguarding and creating jobs, meeting housing and infrastructure needs, building and planning law was simplified and accelerated for relevant projects by the Act Facilitating Planning Projects for Inner Urban Development,[157] which came into force on January 1st, 2007.

1.2. The Basic Principles of the Planning System

The federal structure of the state with the three levels of federal, state, and local government is decisive for the system of spatial planning in Germany. Spatial planning is accordingly decentralised in this country. The distribution of competence and functions between the three levels of government produces a system with legally, organisationally, and substantively differentiated planning levels.[158] While they are legally, organisationally, and substantively defined and clearly differentiated, they are interlinked by the mutual feedback principle as well as complex requirements of notification, participation, coordination and compliance.[159]

Federal spatial planning is limited essentially to the development of guiding principles and, principles of spatial planning which also provide the legal basis for state spatial planning and superordinate specifications for sectoral planning. State spatial planning gives concrete form at the state level to the federal principles of spatial planning, while at the local level, final planning

[149] Gesetz zur Änderung des Baugesetzbuchs und zur Neuregelung des Rechts der Raumordnung (BauROG) of August 18th, 1997 (BGBl. I 2081; renewed promulgation of the act in force from January 1st, 1998 on September 3rd, 1997 (BGBl. I 2141, 1998 I 137)
[150] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung 190-211
[151] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung 212-254
[152] IPPC: integrated pollution prevention and control
[153] Section 12 of the Gesetz zur Umsetzung der UVP-Änderungsrichtlinie, der IVU-Richtlinie und weiterer EG-Richtlinien zum Umweltschutz of July 27th, 2001 (BGBl. I 1950)
[154] Gesetz zur Anpassung des Baugesetzbuchs an EU-Richtlinien (Europarechtsanpassungsgesetz Bau – EAG Bau) of June 24th, 2004 (BGBl. I 1359)
[155] Cf Krautzberger, in: Ernst/Zinkahn/Bielenberg/Krautzberger, BauGB, Einleitung 255-296
[156] Cf chapter. I.1.7
[157] Gesetz zur Erleichterung von Planungsvorhaben für die Innenentwicklung der Städte of Dezember 21st, 2006, BGBl. I S. 3316
[158] Cf Turowski, Raumplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 895
[159] Cf Turowski, Raumplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 898

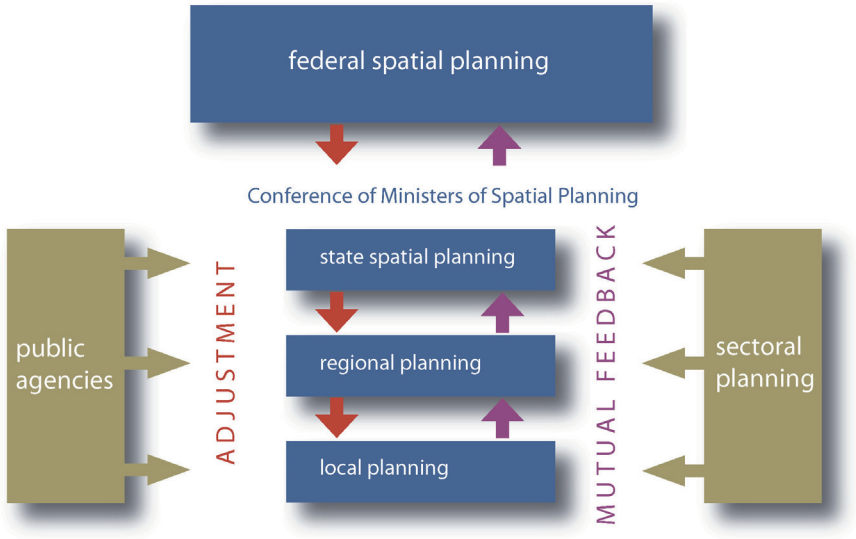


Figure II.1: Mutual feedback principle (own illustration, cf BBR, Bonn 2005)

goals are developed in compliance with both federal and state spatial planning specifications. It is the responsibility of local authorities to regulate the use of land for building and other purposes at the lowest planning level.

According to the Spatial Planning Act, the task of *federal spatial planning* is to focus sectoral planning and public investment from the point of view of regional and national structural policy. It lays down material guidelines and guiding principles, which provide a binding, comprehensive and superordinate model for lower-level planning tiers, sectoral planning, and public measures affecting spatial development. The aim of superintending the spatial structure of the national territory is to establish equivalent living conditions in all parts of the country.

The structural policy of the states plays an important role in supporting and promoting spatial development in Germany and in reinforcing infrastructural measures. The Federal Spatial Planning Act requires the states to engage in state spatial planning. They adopt state spatial planning acts implementing the prescribed guiding principles and principles of spatial planning in a form adapted to conditions in the given state.

Planning in the states as stipulated by the Spatial Planning Act is a two-phase process. *State spatial planning* addresses spatial development in the state as a whole, while regional planning is concerned with subdivisions of a state. The competent planning authorities prepare state-wide and regional spatial structure plans setting out the principles of spatial planning to be taken into account in all spatially significant planning and measures, and spatial planning objectives to be observed.

State spatial planning authorities have to ensure that the goals and principles of national spatial planning and state spatial planning are respected and taken into account in local government planning. In a system of mixed top-down/bottom-up planning, they accept suggestions from local authorities and are required to coordinate local development goals with superordinate planning goals. The aim is to ensure that urban land-use planning does not frustrate the development aims of state spatial planning but supports them, thus avoiding investment mistakes.

Below the state level of spatial planning, *regional planning* is concerned with the detailed elaboration, sectoral integration, and implementation of the goals of state spatial planning. It ac-

cordingly mediates between state spatial planning and local urban land-use planning. Regional planning must conform with federal and state spatial planning.

The obligation to adapt local land-use plans to the goals of comprehensive spatial planning (Section 1 (4) of the Building Code) and the duty of mutual coordination between planning levels (mutual feedback principle) ensures that planning within the federal structures of government is not contradictory and that the guiding principles and principles of spatial planning are given increasingly specific and concrete form from tier to tier in the planning system.[160]

1.3. Objectives, Scope, and Functions of the Planning System

Spatial planning is an area-related public sector task that can be subdivided into comprehensive (or overall) planning and sectoral planning (cf chapter II.4). Comprehensive spatial planning addresses the supra-local (spatial planning) and local levels (urban land-use planning).

Federal spatial planning has no tools at its disposition for organizing and developing the entire national territory except for the German Exclusive Economic Zone (EEC). For this territory the Federal Ministry of Transport, Building and Urban Affairs has the competence to establish a spatial structure plan.

State spatial planning is limited to general spatially significant planning and measures. In contrast, both sectoral planning and local urban land-use planning deal with specific uses and specific areas and sites. *Sectoral planning* handles the final autorisation of special projects (e.g. railways) (cf detailed treatment in chapter II.4). According to Section 1 (1) of the Building Code, the task of *local urban land-use planning* is to prepare and control the use of land for building or other purposes (cf chapter II.3.2). Only in the subsequent authorisation procedure under state building regulations, unless an exception is made and where further ancillary conditions for approval have been met (e.g. immission control, conservation of historic monuments, nature conservation), are the permissible uses for a site laid down (cf chapter II.3.4).

The highly differentiated system of comprehensive spatial planning and sectoral planning, and the associated distribution of competencies ensure that planning is coordinated at every level.

Federal spatial planning

Although the Federation disposes of no legally effective planning tools with the exception of a spatial structure plan for the EEZ, it can exercise considerable influence at all territorial levels through its legislative powers in spatial, urban, and sectoral planning, through economic, financial, and transport policy tools, and in the exercise of joint responsibilities.[161] In carrying out spatially significant measures and planning, the principles of spatial planning set forth in Section 2 of the Federal Spatial Planning Act have to be taken into account when weighing interests and in discretionary decisions, and to be clearly defined and laid down in state and regional planning as aims of spatial planning.[162] Since there are no spatial structure planning instruments for the territory of the Federal Republic as whole, the Federal Government coordinates sectoral departmental policy, as well as state and European Union policy by other means. They include spatial planning reports, comments on state and regional spatial structure plans, participation in the development of European spatial development concepts, the development of guidelines

[160] Cf BBR (ed.): Räumliches Planungssystem in Deutschland, www.bbr.bund.de/raumordnung/raumentwicklung/planungssystem.htm, 5.10.2005
[161] Cf Turowski, Raumplanung, in: ARL (ed.), Handwörterbuch der Raumordnung:895
[162] Cf Turowski, Raumplanung, in: ARL (ed.), Handwörterbuch der Raumordnung:896

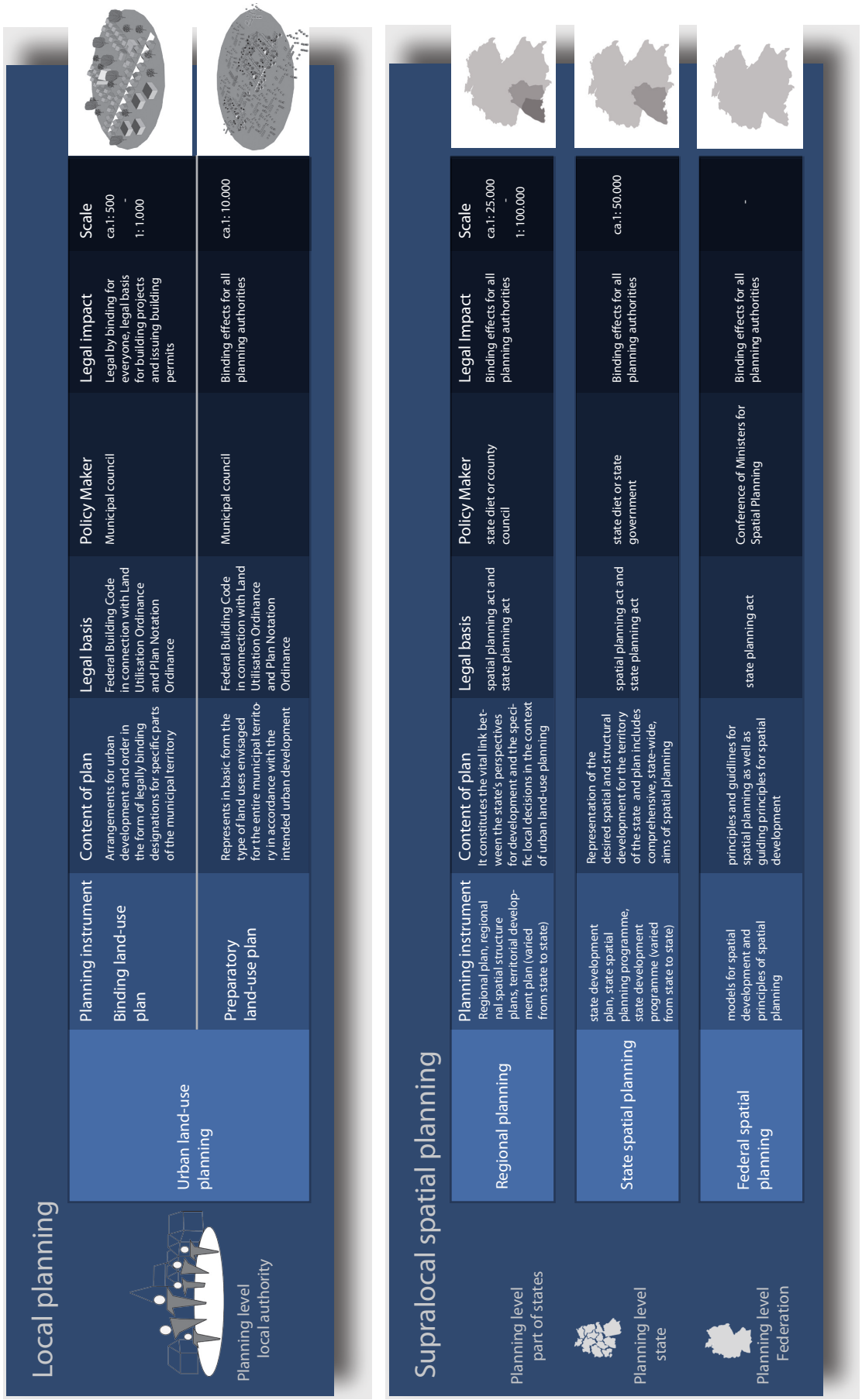


Figure II.2: Levels of planning system (own illustration)

and plans of action for the Conference of Ministers for Spatial Planning, and research and pilot projects.[163]

The 1998 Spatial Planning Act gave the Federation a notable, novel and informal tool for developing "guiding principles for the spatial development of the national territory and covering matters transcending individual states," helping enhance recognition of federal spatial planning as an independent tier in the German planning system.[164] The overriding purpose of spatial planning is now to achieve sustainable spatial development which will bring the social and economic demands made on an area into line with its ecological functions, and producing a stable and well-balanced order. A detailed treatment of the development of guiding principles for spatial development is provided in chapters II.1.4.1. and II.3.1.2.

State spatial planning

Under Section 8 of the Federal Spatial Planning Act, an overall, superordinate plan has to be prepared for the territory of a state. In the city-states of Berlin, Bremen, and Hamburg a preparatory land-use plan pursuant to Section 5 of the Building Code can perform the same function. The chief matters covered by state-wide spatial structure plans are spatial structure, central place structure, and superordinate infrastructure, as well as the distribution of potential settlement areas and open areas.[165] The goals and principles of spatial planning as laid down are to be observed and taken into consideration by subordinate tiers of planning and in sectoral planning.

Regional planning

Within the German spatial planning system, in keeping with the federal structure of government and the principle of decentralised administration, regional planning is a function of state spatial planning concerned with subdivisions of the territory. It is independent of comprehensive spatial planning, state spatial planning, and local planning, with its own functions pursuant to Section 9 of the Federal Spatial Planning Act. It is concerned with broad, supra-local, and cross-sectoral, foresighted planning for the spatial and settlement structural development of a region.[166] It is differently regulated from state to state.

Except in Bavaria, planning regions are defined by state law. The states are divided into a varying number of planning regions (e.g. five in Brandenburg and four in Mecklenburg-Western Pomerania). Regional planning is also organised differently from state to state. In most states it is entrusted to special associations set up primarily by local authorities, differing in organisational detail (e.g. Bavaria, Brandenburg, Saxony-Anhalt). In the other states, regional planning is assigned to counties (Lower Saxony), middle-tier state bodies (Hessen, North Rhine-Westphalia), or the government level (Schleswig-Holstein). Regional planning has not been introduced in Saarland.[167] Depending on the state, regional plans take the form of ordinances, local government statutes of bye-laws, or special types of government measure.[168]

Local urban land-use planning

Local urban land-use planning is a formal tool on the basis of the Federal Building Code. According to Section 1 (1) of the Code, the task of urban land-use planning is to prepare and control the use of land for building or other purposes. The aims and principles of urban land-use planning are laid down in the form of planning guidelines (Section 1 (5) of the Building Code).

[163] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung:867f
[164] Cf Turowski, Raumplanung, in: ARL (ed.), Handwörterbuch der Raumordnung:896
[165] Goppel, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung:563
[166] Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung:965
[167] Cf Hendler, Raumordnungsrecht, in: ARL (ed.), Handwörterbuch der Raumordnung:882
[168] Cf Hendler, Raumordnungsrecht, in: ARL (ed.), Handwörterbuch der Raumordnung:883

Objectives include ensuring sustainable urban development and a socially equitable utilisation of land for the general good of the community, contributing to a more humane environment and to the protection and development of natural resources, and to the preservation and development of the urban cultural heritage. These general planning guidelines are defined in detail in Section 1 (6) of the Building Code, which sets forth a non-exclusive spectrum of planning requirements (e.g. healthy housing and working conditions, avoidance of unbalanced population structures, developing the appearance of localities and landscapes, protection of the environment). Public and private interests affected by urban land-use planning are to be duly weighed (Section 1 (7) of the Building Code).

Urban land-use plans are to be prepared, amended, supplemented, or set aside when and where required for urban development and planning purposes (Section 1 (3) of the Building Code). The goals and principles laid down in state and regional plans and other spatial planning demands provide the basis for local urban land-use planning, the most important level for the implementation of spatial planning requirements. The goals of spatial planning are strictly binding, whereas the principles and requirements of spatial planning are to be given due consideration in weighing interests. Urban land-use plans are to be brought into line with the goals of spatial planning (Section 1 (4) of the Building Code).

Local urban land-use planning is carried out on two levels: the preparatory land-use plan and the binding land-use plan. Details are provided in chapters II.1.4.3 and II.3.2.

1.4. Main Tools of the Planning System

The tools available to the planning system are statutory plans and programmes and the legally permitted means of safeguarding and implementing them at all levels. In addition to statutory planning tools, supplementary, informal planning is possible – which is not, however, binding, or at best unilaterally binding on the planner.

1.4.1. Spatial Planning Tools

As we have seen in chapters II.1.2 and II.1.3, no binding spatial structure plan is provided for as a tool for controlling and developing the national territory as a whole. Without prejudice to the tasks and responsibilities of the states, the competent Federal Ministry for Regional Planning, Building and Urban Development seeks to implement the principles of spatial planning in accordance with Section 2 (2), subject to the provisions of the guidlines of spatial planning and the mutual feedback principle in accordance with Section 1 (2) and (3) (Section 18 of the Federal Spatial Planning Act). On the basis of the regional plans and in cooperation with the supreme state authorities responsible for spatial planning, it primarily develops guiding principles for the spatial development of the national territory. The ministry also develops concepts transcending individual states, thus providing a basis for the coordination of spatially significant plans and measures between the Federation and the European Union, subject to the applicable provisions (Section 18 (1) of the Federal Spatial Planning Act). The guidline of spatial planning is to achieve sustainable spatial development which will bring the social and economic demands made on an area into line with its ecological functions and result in a stable and well-balanced order.

On June 30th, 2006, the Conference of Ministers for Spatial Planning (MKRO) adopted new guiding principles and Strategies for Spatial Development in Germany.[169] The new models replace the 1993 Spatial Planning Policy Guidelines, because the general setting for spatial deve-

[169] Available at www.bbr.bund.de, Veröffentlichungen/Sonderveröffentlichungen. See also BBR, Informationen aus der Forschung des BBR, Nr. 4/September 2006

lopment had changed considerably.[170] Details on the content of the new models are provided in chapter II.3.1.1.

1.4.2. Planning Tools for State and Regional Planning

Various tools are available to state and regional planners in producing orderly planning in the face of competing economic, social, cultural, and ecological interests and in coordinating spatially significant plans and measures.

Planning tools

State spatial structure plans outline spatial and structural development for the territory of the different states. The states are required to prepare such plans.[171] For the territory of each state, a comprehensive, overriding plan is to be prepared (Section 8 of the Spatial Planning Act), and states whose territory encompasses the catchment areas of a number of high-order centres are required to prepare regional plans (Section 9 of the Spatial Planning Act). The function of these plans is to coordinate the spatially relevant planning and projects of all competent organisational units and to tie them in with the conceptual aims of state spatial planning itself. The names given state spatial plans differ from state to state (e.g. state development plan (*Landesentwicklungsplan*), state spatial structure programme (*Landesraumordnungsprogramm*), state development programme (*Landesentwicklungsprogram*m)) (see chapter II.3.5).

Spatial structure plans for subdivisions of a state deal with the spatial and structural development of regional planning areas. They are prepared on the basis of state spatial planning requirements. The spatial planning aims set forth in state spatial structure plans must be complied with and detailed in the plans drawn up for regions of the state. The name of regional spatial structure plans also differ from state to state (e.g. regional plan (*Regionalplan*), regional spatial structure programme (*Regionales Raumordnungsprogramm – RROP*), area development plan (*Gebietsentwicklungsplan*)).

Safeguarding planning

The Federal Spatial Planning Act and state spatial planning acts provide safeguards for spatial planning and state spatial planning to keep unwanted and unexpected developments under control.

Planning safeguards (Section 10 of the Federal Spatial Planning Act and corresponding state legislation): To safeguard planning, the relevance of violations of procedural and formal requirements and the implications for the validity of spatial structure plans are regulated. Time limits are also set for lodging objections to violation of procedural or formal requirements or faults in assessment. Failure to observe these time-limits precludes objection.

Derogation procedure (Section 11 of the Federal Spatial Planning Act and corresponding state legislation): Deviation from a regional planning goal is possible under a special procedure if the derogation is justifiable from the point of view of regional planning and if planning essentials are not affected.[172]

Prohibition of plans and measures conflicting with the principles of spatial planning (Section 12 of the Federal Spatial Planning Act): Spatially significant plans and measures covered by the binding effects of the goals of spatial planning can be prohibited for an unlimited period of

[170] Cf fpr details www.bbr.bund.de
[171] Cf chapters I.2.2. and II.2.1. on legislative powers in spatial planning.
[172] Cf for details: Höhnberg, Instrumente zur Verwirklichung von Raumordnung und Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung:485f

time if they conflict with these goals. Spatially significant plans and measures can be prohibited for a limited period of time if there are fears that the realisation of spatial planning goals in the process of being established would be rendered impossible or significantly impeded.[173]

Adaptation to the aims of spatial planning (Section 4 (1) sentence 1 of the Federal Spatial Planning Act): Under this provision, spatial planning objectives are to be observed by public authorities in spatially significant plans and measures. Section 4 (1) sentence 1 and Section 1 (4) of the Building Code on the compliance of urban land-use plans (preparatory land-use and binding land-use plans) with the objectives of spatial planning tally substantively.[174]

State spatial planning coordination tools

State spatial planning coordination tools have the task of coordinating the numerous supralocal projects of the various public and private planning agencies that affect spatial structures:

Spatial planning procedures (Sections 15 and 19 of the Federal Spatial Planning Act and corresponding state legislation): Spatially significant plans and measures are to be harmonized and coordinated with the requirements of spatial planning. Spatial planning procedure (*Raumordnungsverfahren – ROV*) supervises compliance of spatially significant plans and measures with the requirements of spatial planning policy as well as their harmonization and implementation in conformity with this policy. Spatial planning procedure includes the assessment of alternative sites and routes and of environmental impacts. Spatially significant plans and measures subject to spatial planning procedure are defined in Section 1 of the Spatial Planning Ordinance.

- Transnational coordination of spatially plans and measures (Section 16 of the Federal Spatial Planning Act)
- Simplifiy state spatial planning coordination procedures (differing from state to state)
- State spatial planning report

Obligation to provide information and reporting

Notification and information duties (between federal and state governments and within states) (Sections 14 and 19 of the Federal Spatial Planning Act and corresponding state legislation): These provisions oblige federal and state authorities, as well as private persons to exchange information on spatially significant plans and measures necessary for the discharge of spatial planning functions.

Spatial monitoring: Spatial monitoring is the indicator-based, on-going, systematic, and comprehensive identification and description of spatial structural developments in such fields as demography, the economy, the labour market, agriculture, tourism, and the environment. As a basis for planning, spatial monitoring is an important and permanent task both at the national level (on-going spatial monitoring by the Federal Office for Building and Regional Planning (BBR) and by most state and regional planning authorities. It provides planning bodies with early information on spatial processes affecting planning and on the effectiveness of measures that are already running. Spatial monitoring addresses spatial policy and planning issues on the basis of regional statistics and area-related data. The results of spatial monitoring are presented in maps and diagrams, and increasingly in the form of digital spatial planning registers.[175]

Spatial planning register (state spatial planning legislation): Spatial planning registers are

[173] Cf for details: Höhnberg, Instrumente zur Verwirklichung von Raumordnung und Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung:484f
[174] Cf BVerwG, DÖV 1993, 118
[175] Cf Gatzweiler, Raumbeobachtung, in: ARL (ed.), Handwörterbuch der Raumordnung:841-845 und ARL (ed.): Deutsch-Niederländisches Handbuch der Planungsbegriffe

cartographic collections covering all spatially significant plans and measures relating to spatial and settlement structure. Spatial planning registers are prepared by middle and upper-tier planning authorities. They are the functional basis for:

- the evaluation of spatially significant plans, measures, and investment,
- the substantiation and resolution of existing and potential conflicts between uses,
- coordination and consultation between public and private planning bodies,
- the preparation of spatial structure plans and planning decisions,
- the underpinning of spatial planning procedures.[176]

Spatial planning report / state development reports (reports on the status of spatial planning, goal attainment, spatial development trends and major planning projects) (Section 21 of the Federal Spatial Planning Act and corresponding state legislation): Spatial planning and state development reports supply information on the current state of affairs, on foreseeable developments in spatial and settlement structure, and necessary and envisaged spatially significant plans and measures. In addition, they inform about the geographical distribution of such plans and measures and about the impact of EU policy on the development of spatial and settlement structure.

Informal tools

In addition to these formal instruments for realizing spatial planning there are informal tools. Spatial planning and state development instruments are considered informal if they have no statutory binding force. Their purpose is to contribute to the realization of spatial structure plans. Examples include:

- regional development concepts (Section 13, sentence 3 of the Federal Spatial Planning Act),
- city networks (Section 13, sentence 4),
- contractual agreements on preparing and implementing spatial structure plans (Section 13 sentence 5).

This substantially broadens the range of tools available. The advantage of these informal instruments is that they can be used flexibly and with focus on a given problem without legally binding requirements. Their impact depends on the persuasive power of their content. This calls for the active involvement of the relevant people and institutions. In the past, informal tools have steadily grown in importance. They are accepted as an indispensable supplement and extension of spatial structure plans and formal spatial planning instruments.

1.4.3. Tools for Local Government Planning

Local authorities, in which local planning powers are vested, have a range of tools at their disposition for preparing and managing the use of land in their territory for building and other purposes. The Federal Building Code does not, however, regulate the preparation, modification and amendment of urban land-use plans, but it does contain provisions on safeguarding and implementing them.

[176] Cf Höhnberg, Instrumente zur Verwirklichung von Raumordnung und Landesplanung, in: ARL (ebd.), Handwörterbuch der Raumordnung: 488

Planning tools

The most important local planning instruments are the preparatory land-use plan (*Flächennutzungsplan – FNP*) and the binding land-use plan (*Bebauungsplan – B-Plan*).

The preparatory land-use plan is prepared for the entire municipal territory. It outlines the use to which land is to be put to meet the foreseeable needs of the community in keeping with the spatial planning and development goals of the municipality. This is the plan's particular role in urban development. Section 5 of the Federal Building Code regulates its content.

The *binding land-use plan* is drawn up for a section of the municipal territory. It must be developed on the basis of the preparatory land-use plan (Section 8 (2) of the Federal Building Code). The binding land-use plan sets out the legally binding stipulations for urban structure (Section 8 (2) sentence 1 of the Federal Building Code). These stipulations are arrangements concerning property within the meaning of Article 14 (1) sentence 2 of the Basic Law.[177] The binding land-use plan is adopted by the municipality in the form of a bye-law (Section 10 (1) of the Federal Building Code). Further details on urban land-use planning are provided in chapter II.3.2.

The assumption underlying rules on the authorisation of projects (Sections 29ff of the Building Code) is that permissibility is primarily to be settled by local authorities through binding land-use plans.[178] Only where the local authority fails to discharge its control functions through binding urban land-use plannin.[179] does project authorisation fall under Section 34 of the Building Code (projects in built-up areas) or Section 35 (projects in outer zones).

Instruments for securing planning

Development freeze (Sections 14 ff of the Federal Building Code): If the local authority has adopted a binding land-use plan, it can issue a development freeze to safeguard its planning intentions. In the planning area, development projects within the meaning of Section 29 may not be implemented or physical structures removed, or any major or fundamental changes of a kind which would result in an increase in value may be made to plots and physical structures. A development freeze is imposed for two years. It can be extended for a year and – for good cause – for a further year after that.[180]

Postponement of building applications (Section 15 of the Federal Building Code): If a local authority fails to impose a development freeze even though the conditions therefor are fulfilled, it may apply for the postponement of building applications. In this case, the building authority can postpone the decision on authorisation for up to twelve months.[181]

Safeguards for areas of tourism (Section 22 of the Federal Building Code): In order to safeguard tourist areas, municipalities that are major tourism centres may determine in a binding land-use plan or by means of some other statute that in the interests of safeguarding the functions of areas serving tourism permission shall be required for the establishment or subdivision of ownership of residential apartments or of property in part-ownership.[182]

General right of pre-emption (Section 24 of the Federal Building Code): The municipality is entitled to exercise a pre-emption right in respect of the purchase of property in areas designated by Section 24 (1), nos. 1 to 6. The local authority may exercise its right of pre-emption – even in

[177] Cf Gaentzsch, in: Schlichter, Otto/Stich, Rudolf (eds.), Berliner Kommentar zum Baugesetzbuch, § 8 Rn. 2ff
[178] Cf Kuschnerus, Ulrich: Der sachgerechte Bebauungsplan, Rn. 6
[179] Cf Kuschnerus, Ulrich: ibid., Rn. 8
[180] Cf details in Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, §§ 14ff
[181] Cf details in Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 16.
[182] Cf details in Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 22

favour of a third party – only when this is in the public interest. In certain cases, exercise of this right is excluded. The purchaser may forestall the exercise of a pre-emption right where he is in a position to use the land within an appropriate period in accordance with building regulations or the aims and purposes of the urban development measure. Procedure and compensation are regulated by Section 28 of the Building Code.[183]

Specific right of pre-emption (Section 25 of the Federal Building Code): In addition to its general pre-emption right, a municipality may assert by statute its right of pre-emption in respect of undeveloped land within the area covered by a binding land-use plan or in respect of areas for which urban development measures are being considered.[184]

Plan implementation tools

Land reallocation (Sections 45-84 of the Federal Building Code): It is permissible for both developed and undeveloped land to be reorganised through a process of reallocation in such a manner as to create plots suitable in terms of location, shape, and size for built development or for other uses. Reallocation can be carried out within the area covered by a binding land-use plan (Section 30 (1) of the Building Code) and within a built-up area (Section 34), or within the area covered by a non-qualified binding land-use plan (Section 30 (3)) if there are sufficient grounds for reorganisation. A distinction is drawn between reallocation (Sections 45-79 of the Building Code) and simplified adjustment of plot boundaries (Sections 80-84).[185]

Law relating to compensation (Sections 39-44 of the Federal Building Code): The provisions on compensation in the Building Code deal with the consequences of intervening through planning in the use of land.[186] A distinction is made between the following grounds for compensation:

- compensation following change or withdrawal of a permitted use (Section 42 of the Building Code),
- compensation for the adverse designation of public spaces (Section 40),
- compensation for encumbrances and obligations under the binding land-use plan (Section 41),
- compensation for breaches of faith (Section 39).[187]

Expropriation (Sections 85-122 of the Federal Building Code): The Building Code permits the expropriation (compulsory purchase) of private property when in the public interest and where the purpose to be served cannot be reasonably achieved by any other means. Section 85 (1), nos. 1 to 5 and 7 list six grounds for expropriation under the Building Code, while no. 6 is covered by state law.[188] Expropriation is possible only against compensation. It is granted for the loss of rights and for property losses of other kinds arising from expropriation. [189]

Land improvement (Sections 123-135 of the Federal Building Code): Prerequisite for the use of specific land-use areas is the provision of local public infrastructure (land improvement). Initial land improvement is the task of the municipality unless it is imposed by a law or contract on another party. There is no absolute right to land improvement, but it may arise from certain conduct on the part of the municipality.[190] The precondition for the provision of local public in-

[183] Cf details in Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, §§ 24, 26-28
[184] Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 25
[185] Cf Schieferdecker, in: Hoppe/Bönker/Grotefels, Öffentliches Baurecht, 372ff
[186] Cf Battis, in: Battis/Krautzberger/Löhr, BauGB, Vorbemerkungen §§ 39 bis 44, Rn. 1
[187] Cf details Battis, in: Battis/Krautzberger/Löhr, BauGB, §§ 39-44
[188] Cf Battis, in: Battis/Krautzberger/Löhr, BauGB, § 85 Rn. 1
[189] Cf Schieferdecker, in: Hoppe/Bönker/Grotefels, Öffentliches Baurecht:390ff
[190] Cf Löhr, in: Battis/Krautzberger/Löhr, BauGB, Vorbemerkungen §§ 123 bis 135, Rn. 8

frastructure within the meaning of Section 127 (2) is the existence of a legally binding land-use plan. The binding effect of the land-use plan may be relaxed under certain circumstances.[191] To recoup otherwise unrecoverable public expenditure on local public infrastructure, local authorities may collect charges. Section 127 (2) of the Building Code lists the infrastructure for which recoupment charges may be levied. Expenditure on local public infrastructure within the meaning of Section 127 comprises costs in respect of the items listed in Section 128 (1) nos. 1 to 3. Where the local authority collects such charges, it has to bear at least 10 per cent of the legitimate charges for land improvements (Section 129 (1) sentence 3. In the event of a land improvement contract being concluded, the above mentioned arrangements do not apply. The local authority is required to adopt a land improvement charges bye-law. It is a precondition not only for liability to charges but also provides the legal basis for issuing notices of charges.[192][193] Its content is regulated by Section 132 of the Building Code.

Urban development enforcement orders (Sections 175-179 of the Federal Building Code): Urban-development enforcement orders serve in implementing urban development and structural measures in areas where a high measure of cooperation is required between local authority, owners, authorised users, and investors.[194] Since arrangements are relatively "weak" (as regards building orders) and require a great deal of administrative input, such enforcement orders can prove more useful for active local authorities intent on implementing urban development planning as guides to procedure than as independent intervention instruments.[195] They have therefore played a relatively minor role in actual practice. [196]

Informal tools

Informal tools have the advantage of being more flexible and problem-focused. As a rule, they are used to prepare alternative planning and are to be taken into account in the preparation of formal plans. Although informal plans of many sorts are conceivable, at the local government level standard master plans like the urban development plan or the framework development plan have evolved. The preparation of informal master plans and programmes has become a permanent part of local government planning practice.

Informal plans deal with a shifting spectrum of urban themes, since changes in society bring about changes in the tasks facing urban planning.

The Building Code deals with informal planning in Section 1 (6) no. 11 and elsewhere. Although legislation has not provided for a legally specified third tier of planning, the Building Code proceeds on the assumption that urban development activities, including urban land-use planning, is embedded in a web of informal planning.[197]

Section 1 (6) no. 11 explicitly states that urban development concepts and other urban plans are matters of public interest to be duly weighed.

In recent years, urban development concepts have gained outstanding importance in connection with urban redevelopment (Section 171a (2) of the Building Code) and the Socially Integrative City (Section 171e (4)). In the case of urban redevelopment, these concepts seek to integrate measures into a long-term strategy for the city as a whole. The aim is to enable sustainable

[191] Cf Löhr, in: Battis/Krautzberger/Löhr, BauGB, § 126 Rn. 6ff
[192] Cf Löhr, in: Battis/Krautzberger/Löhr, BauGB, § 132 Rn. 1
[193] Cf details Battis, in: Battis/Krautzberger/Löhr, BauGB, §§ 123-135
[194] Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, Vorbemerkungen §§ 175-179, Rn. 4
[195] Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, Vorbemerkungen §§ 175-179, Rn. 4
[196] Cf Schmidt-Eichstaedt, Städtebaurecht, 481ff
[197] Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 79

urban development (urban planning objective) and to stabilise the housing market by reducing the surplus of permanently superfluous housing (housing industry objective).[198]

The *urban development plan* is a long-term local authority development concept, an informal control tool that presents the focal points in development and guidelines for medium to long-term planning in a community. It is one of the most important urban planning instruments along with preparatory and binding land-use planning.

Urban development concepts are prepared for city-wide and sectoral planning goals. Typical examples are transport development plans, urban development plans dealing with housing, industry, commerce, or the social infrastructure.

The *framework development plan* is also an informal type of plan. In contrast to the urban development plan, it usually applies not to the entire territory of the municipality but to smaller areas (e.g. framework planning in preparation for urban rehabilitation measures; see chapter II.3.3).

Planning within the meaning of Section 1 (6) no. 11 of the Building Code has no direct legal effect. It is, however, internally binding, and has other effects (e.g. regarding matters material to the weighing of interests, pre-emption statutes in areas where urban development measures are envisaged, the interpretation of indeterminate legal concepts in the context of Sections 33 and 31 (2) no. 2 of the Building Code, the development of goals and purposes in rehabilitation, urban redevelopment, and the Socially Integrative City).[199] However, these effects depend on certain formal and material conditions being met: the informal plan must have been passed by the local council and, notwithstanding statutory provisions, the general public and public authorities must have been given a prior opportunity to participate.[200] Informal planning must comply with the aims and principles of urban land-use planning and seek to balance the interests affected.[201]

1.4.4. Sectoral Planning Tools[202]

Apart from cross-sectional, comprehensive planning (urban land-use planning, regional planning, state spatial planning), there is specialised or sectoral planning. The range of sectoral planning is given statutory legitimation by a multitude of sectoral planning acts. Sectoral planning can be roughly divided into the sectors transport and communications, utilities, defence, agriculture, and environmental protection and nature conservation.

In approval and permission procedures both sectoral planning legislation and the Administrative Procedures Act (*Verwaltungsverfahrensgesetz – VwVfG*[203]) apply.

As a rule, the legislation on spatially significant sectoral planning requires public authorities and sectoral planners to coordinate their activities with comprehensive spatial planning. The authorities and sectoral planners have a range of tools at their disposal. They are dealt with in detail in chapter II.4.

198 Cf Bundestransferstelle Stadtumbau Ost, Glossar, www.stadtumbau-ost.info, 21.06.2006
199 Cf details in Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 81ff
200 Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 85
201 Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 86
202 Cf Stüer, Handbuch des Bau- und Fachplanungsrechts, 531ff
203 Verwaltungsverfahrensgesetz (VwVfG) of May 25th, 1976 (BGBl I 1253) as amended and promulgated on January 23rd, 2003 (BGBl. I, 102); amended by Article 4 (8) of the act of May 5th, 2004 (BGBl. I, 718).

1.5. Main Elements in Spatial Planning

The main elements in planning are categories of use and types of settlement or area. There are two sorts of category. The first covers existing structures, the second describes planning goals at all levels of spatial planning.

The spatial structure types used by the Federal Office for Building and Regional Planning in the Spatial Planning Report provide the basis for analysing spatial differences throughout the country and for discussing and developing guiding principles for spatial development, and approaches to action.

These categories of area, differing chiefly in population and settlement density, are the basis for differentiated spatial studies, spatial development concepts and strategies all over the country. The spatial structure of the Federal Republic of Germany is characterised by a relatively balanced, decentralised concentration of population, workplaces, and infrastructure. This decentralised concentration applies not only to the country as a whole but also to all subordinate types of area such as:

- towns and cities,
- urban regions,
- agglomerations,
- large, continuous rural areas.[204]

The additional category of urban region was introduced to take account of the special problems posed by interdependencies between cities and their catchment areas.

The concept of area categories was developed to lessen the gap between rural regions and agglomerations in population density, infrastructure endowment, and economic performance.[205]

Planning elements of state spatial and regional planning

The guiding principles for spatial development developed on the basis of analyses are given concrete form and implemented in the spatial structure plans at the state and regional levels (cf chapter II.1.3). Section 7 of the Federal Spatial Planning Act provides a non-exclusive list of planning elements by means of which objectives are to be set in spatial structure plans. Section 7 contains provisions on the desired settlement structure, open space structure, and infrastructure routes. Among the most important of these elements are:

- spatial categories,
- central place systems,
- axes,
- functions,
- guideline values.

Spatial categories

Spatial categories (spatial order categories, area types) are areas defined in terms of specific criteria in which comparable structures exist and where similar goals are pursued. The most important spatial categories include:

[204] Milke, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung:359
[205] Cf BBR (ed.): Raumkategorien, www.bbr.bund.de/index.html?/raumordnung/raumentwicklung/instrumente.htm, 4.10.05.

- conurbations/agglomerations,
- regulatory areas,
- structurally weak areas,
- rural areas.[206]

Conurbations or agglomerations have a higher population density and a high ratio of developed area to total area. This classification serves primarily to safeguard housing and workplaces.[207]

Together with surrounding, peripheral areas, agglomerations form *regulatory areas* (*Ordnungsräume*). They are defined on the basis of intensive commuting relations between agglomerations and peripheral areas. Since these areas are subject to strong development pressure, regulatory measures play an important role, the aim being to concentrate future settlement along axes. The areas between axes are to be preserved for important recreational functions.[208]

Areas where living conditions as a whole are well below the national average or where a decline is expected are termed *structurally weak areas*. Policy makers have a particular responsibility in these areas to do justice to the constitutional requirement of establishing equivalent living conditions.[209]

Areas outside regulatory areas are referred to as *rural areas*. They often face a whole range of development problems. This is particularly the case with peripheral, structurally weak areas in Germany.[210]

Central place systems

The central-place system aims to provide the population with area-wide infrastructural amenities. State and regional planning assign local authorities to categories in the central-place system. The service function includes public and private services and the employment situation,[211] and is performed by so-called central places at different levels.

- basic centres, low-order or small centres supply the basic daily needs of the population in the immediate area,
- middle-order centres are central places that meet more demanding needs of the population in the intermediate area,
- high-order centres are central places that meet demanding, specialised needs of the population in the extended catchment area.[212]

In order to distinguish the supply functions of the different categories of central place, spatial and state spatial planning have developed catalogues of facilities and amenities. They provide the framework for public planning and guidance for public and private investment.

Axes

This planning element is constituted by a concentration of transport and supply infrastructure routes and/or by a varyingly close succession of development centres. The distinction between

[206] Cf Turowski/Lehmkühler, in: ARL(ed.), Grundriss der Landes- und Regionalplanung:160
[207] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung.161
[208] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung:161
[209] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung:162
[210] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung:161
[211] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung:162
[212] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung:163

supra-local transport or communication axes and *local settlement axes* has been largely accepted among experts.[213]

- Supra-local axes or communication axes serve the far-reaching exchange of goods, services and people. They connect agglomerations with peripheral areas and are intended to provide locational advantages for the areas they traverse. They are also expected to stimulate development.
- Settlement axes provide for the linear concentration of settlements in coordination with public transport systems. They contribute to settlement structure and the preservation of open spaces, especially in regulatory areas.[214]

Functions

Comprehensive spatial planning and state spatial planning assign specific tasks to local authorities and sub-areas. A basic distinction is made between territory-related or regional functions and municipality-related functions. Regional functions can overlap and be prioritised. They include:

- nature conservation and landscape management,
- agriculture,
- forestry,
- water management,
- clean air and climate,
- tourism, leisure, and recreation,
- raw materials.

Municipality-related functions can be classified as main or subsidiary functions. They incl.:

- central place functions,
- commerce and industry,
- services,
- housing,
- agriculture,
- tourism and recreation.

Guideline values

These planning elements are standards for predicted or envisaged development in a planning area. They are primarily concerned with the development of population, employment, housing construction, settlement areas, industrial land, and infrastructural endowment. They may be set as benchmarks allowing a certain latitude, target projections, or binding targets for a given period. They are intended to provide a uniform basis for all public planning and measures.

There are no statutory rules on how these provisions are to be presented graphically in state and regional plans. Some states have adopted secondary legislation on the use of planning nota-

[213] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung:164
[214] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung:164

tion. The more specific the planning level, the greater is the density of regulation and the more tools there are for steering spatial development.

Planning elements in local urban land-use planning

Local urban land-use planning can be subdivided into preparatory and binding land-use planning. The preparatory land-use plan (*Flächenutzungsplan – FNP*) outlines land use for the entire territory of the municipality. The binding land-use plan (*Bebauungsplan – B-Plan*) determines binding uses for sections of the municipal territory. The content of preparatory and binding land-use plans is governed by Sections 5 and 9 of the Building Code.

Section 5 (2) of the Building Code enumerates possible contents of the preparatory land-use plan. They include:

- the areas designated for development in terms of general types of use (*Bauflächen*), specific types of use (*Baugebiete*) and the general density of built use (the Land Utilisation Ordinance (*Baunutzungsverordnung – BauNVO*) is to be drawn on for further differentiation of concepts and presentation),
- facilities and infrastructure for the public and private provision of goods and services, in particular public amenities and facilities serving the community such as schools, churches, and health, cultural, and social facilities,
- land for supra-local and local transport,
- land for utilities,
- green and open spaces, sports and recreation areas,
- areas where uses are restricted on environmental protection grounds,
- waterbodies, ports and harbours, as well as areas for water management, flood control, and drainage,
- areas for filling, excavation, and the extraction of mineral resources,
- agricultural land, forest and woodland areas,
- areas for measures to protect, preserve, and develop the natural environment and landscape.

A binding land-use plan can conclusively determine the aspects set forth in Section 9 of the Building Code. They include:

- category and intensity of built use,
- the type of development, lot coverage, and positioning of physical structures,
- land for ancillary structures,
- traffic areas and special purpose traffic areas,
- service areas,
- areas for waste disposal and drainage, including the retention and seepage of rainwater,
- public and private green spaces,
- waterbodies,
- agricultural and forest areas,

- incineration bans and the use of renewable energies,
- protected areas and pollution control,
- planting and care of trees, shrubs and greenery of any other kind,
- the setting of time-limits and conditions for designations on special urban development grounds.

The Land Utilisation Ordinance[215] details the potential contents of the preparatory and binding land-use plans.

The building use category can be determined in terms of general and specific types of built use (respectively *Bauflächen* and *Baugebiete*). As a rule, the preparatory land-use plan describes general use areas, while the binding land-use plan designates specific use areas.[216] The following general uses for land are possible:

- residential,
- mixed,
- industrial and commercial,
- special uses.[217]

Land can be designated for the following specific uses:

- small holdings,
- purely residential areas,
- general residential areas,
- special residential areas,
- village areas,
- mixed areas,
- core areas,
- commercial areas,
- industrial areas,
- special areas.[218]

Apart from special areas, *Baugebiete* (specific land-use areas) are defined in terms of their purpose and admissible general and exceptional uses. However, while respecting the general purpose of an area, local authorities are empowered to limit and modify the types of use permitted under Section 1 (1) to (9) of the Land Utilisation Ordinance and, by virtue of Section 1 (10), permanently to secure uses that are not really allowed for the given type of area concerned.[219]

The general density of built use can be specified in the preparatory land-use plan by stating:

- the floor-space index,
- cubing ratio or

[215] Cf Stich, Rudolf, Die Baunutzungsverordnung und die Planzeichenverordnung – Ein Leitfaden für die Bauleitplanung und Zulassung von Vorhaben auf der Grundlage der neueren Rechtssprechung
[216] See details in Sections 1-14 of the Land Utilisation Ordinance
[217] Cf Section 1 (1) of the Land Utilisation Ordinance
[218] Cf Section 1 (2) of the Land Utilisation Ordinance
[219] Cf Kuschnerus, Der sachgerechte Bebauungsplan, Rn.528

- height of the physical structure.[220]

The binding land-use plan can determine the density of built use by means of:

- the site occupancy index or plot coverage rate,
- the floor-space index or floor area, the cubing ratio, or building volume,
- the number of full storeys,
- the height of physical structures.[221]

The binding land-use plan must always determine the site occupancy index or the proportion of the site to be covered by physical structures, but needs to specify the number of full storeys or the height of physical structures only if this is required to protect the public interest, in particular the overall appearance of the locality and landscape.[222] See Sections 16 to 21a of the Land Utilisation Ordinance for the definition and calculation of these aspects.

The building method and design can be specified in the binding land-use plan as:

- open,
- closed or
- divergent.[223]

The permissible lot coverage can be determined in the binding land-use plan by setting:

- building lines,
- set-back lines and
- coverage depths. [224]

The descriptions of the preparatory land-use plan and the designations of the binding land-use plan can be given in graphic or textual form. The Plan Notation Ordinance, which applies throughout the country, lays down the details for graphic representation and designation.

The preparatory and binding land-use plans show sites that can be used only subject to restrictions or special constructional arrangements. Unlike representations and designations, they do not determine how or if the surface of a site can be utilised but point to impacts that can arise from the subsoil or vicinity of the site.[225] They include:

- land which, when developed, will require special physical arrangements to counter external forces, or for which special physical precautionary measures are required as protection against the elements;
- land under which mining activities are pursued or which have been designated for the extraction of minerals;
- land designated for building where the ground has been severely contaminated by hazardous materials.[226]

Plans and other rules on use under other statutory provisions are also to be shown in the preparatory and binding land-use plans for informational purposes. They include complexes of

[220] Cf Section 16 (1) of the Land Utilisation Ordinance
[221] Cf Section 16 (2) of the Land Utilisation Ordinance
[222] Cf Section 16 (3) of the Land Utilisation Ordinance
[223] Cf Section 22 of the Land Utilisation Ordinance
[224] Cf Section 23 of the Land Utilisation Ordinance
[225] Cf Löhr, in: Battis/Krautzberger/Löhr, BauGB, § 5 Rn. 36
[226] Sections 5 (3) and 9 (5) of the Building Code

physical structures listed under state law (preparatory land-use plan) and monuments protected under state law (binding land-use plan).[227] The binding land-use plan can include arrangements laid down by state law (Section 9 (4) of the Building Code). This allows local building regulations to be integrated into the plan. Further details on local urban land-use planning are provided in chapter II.3.2.

1.6. Cross-Border Aspects

Cooperation in European spatial planning and development is becoming more and more important. Common ideas need to be developed about the spatial development wanted in the European Union and about the strategies required to achieve it. Member states of the European Union and their regional and local authorities have therefore been working together intensively for a number of years in this field.

At the federal level, for example, the Federal Office for Building and Regional Planning (*Bundesamt für Bauwesen und Raumordnung – BBR*) provides scientific policy advice in support of European cooperation. Innovative transnational cooperation projects, of particular importance from the national point of view, are also supported financially under the action programme Demonstration Projects of Spatial Planning (*Modellvorhaben der Raumordnung – MORO*).

Section 16 of the Federal Spatial Planning Act enshrines the "transfrontier coordination of regionally significant plans and measures" for federal and state spatial planning. Regionally significant plans and measures that may have a substantial impact on neighbouring countries are to be coordinated with the countries affected in accordance with the principles of reciprocity and equivalence. For local urban land-use planning, too, Section 4a (5) of the Building Code provides for municipalities and public authorities in neighbouring countries to participate in accordance with the principles of reciprocity and equivalence in the preparation of urban land-use plans where these plans may have a substantial impact on these countries.

1.7. Current and Future Changes

The serious demographic changes taking place[228] and their impact on all aspects of life are a subject of discussion at all planning levels throughout the country.[229] A "shrinkage process"[230] makes completely new demands on planners hitherto focused on growth. For a number of years now, planning has been addressing population decline in so-called "shrinking cities," a crisis in urban development caused by structural crises, outmigration, and general demographic decline owing to the surplus of deaths over births. Under these circumstances, urban planning cannot act with any expectation of growth but must address the problems facing more and more sparsely inhabited communities.

In the light of these demographic changes, the urban district and neighbourhood become more and more important settings in urban planning, since existing settlement structures often no longer meet present-day requirements, and require the intervention of planners. Urban redevelopment is primarily a problem in East Germany, where outmigration from the prefabricated housing estates makes restructuring necessary. The political response to this problem has been the "Urban Redevelopment East" programme. Development programmes have meanwhile been extended, so that comprehensive measures for restructuring existing districts or neighbourhoods can now be taken throughout the country under the headings "Urban Redevelopment West" and

[227] Sections 5 (4) and 9 (6) of the Building Code
[228] Cf Rietdorf/Haller/Liebmann, Läuft die Platte leer, Möglichkeiten und Grenzen von Strategien zur Leerstandsbekämpfung in Großsiedlungen, Auftrag des IRS für das Bundesministerium für Verkehr, Bau- und Wohnungswesen
[229] Cf BBR (ed.), Raumordnungsbericht 2005, Band 21
[230] Cf Bundesministerium für Bildung und Forschung (ed.), Auf dem Weg zur Stadt 2030

"Urban Redevelopment East." In response to the challenges of urban redevelopment, provisions on urban redevelopment have been integrated in the Building Code (Sections 171a to d) through the European Law Adaptation Act for the Construction Sector.

As long ago as 1999, the federal and state governments had launched a programme under the title Socially Integrative City, a development programme for "districts with special development needs." The aim of this programme is to combat growing social and geographical divisions in cities. The main focus is on integrating the population groups affected and local actors in urban neighbourhoods (neighbourhood management). Section 171e of the Building Code regulates the subject matter.

The European Law Adaptation Act for the Construction Sector[231] transposed the PEIA Directive into national law as regards urban land-use planning and spatial planning. An *environmental impact assessment* now has to be carried out in preparing, amending, supplementing, and rescinding urban land-use plans and spatial structure plans – thus in the state-wide spatial structure plan and regional plans. This obligation also applies with respect to sectoral legislation.

Current developments in the field of renewable energy, especially wind power plants, biomass, and photovoltaics, have been occasion to update regional plans, as well as preparatory land-use plans and partial PLUPs[232] to permit the appropriate control in siting such facilities.

Retail business attraction projects can be a major challenge for both supra-local and local planning authorities. *Structural change in the retail trade*[233] endanger provision in sparsely populated areas. New service provision concepts are needed for rural and sparsely settled regions. However, the more intensive establishment of (large) retail projects in built-up areas not covered by qualified binding land-use plans (Section 34 of the Building Code) have in recent years cost local authority planners a great deal of effort in preparing binding land-use plans to exclude retail projects expected to have an adverse effect on existing service provision structures. In response to this problem, Section 34 (3) was inserted into the Building Code in 2004, laying down that projects in accordance with Section 34 (1) and (2) must not give cause to expect any adverse impact on service centres in the community or neighbouring communities. Furthermore, it heightened the obligation for coordinating urban land-use plans with neighbouring communities by allowing local authorities to invoke functions assigned to them as aims of spatial planning and the impacts on their service centres.[234]

The Act Facilitating Planning Projects for Inner Urban Development (*Gesetz zur Erleichterung von Planungsvorhaben für die Innenentwicklung der Städte*), which came into force on January 1st, 2007, implemented the intention expressed in the coalition agreement of 11th November 2005 between CDU, CSU, and SPD to reduce land take and speed up important planning projects, especially in the fields of employment, housing, and infrastructure by simplifying and accelerating building and planning law.[235] This act introduced an accelerated procedure for binding land-use plans concerned with inner urban development into the Building Code (Section 13a). The purpose of Section 3 of the Building Code (to prevent projects from having an adverse impact on service centres) can be implemented pursuant to Section 9 (2a) of the Buil-

[231] Gesetz zur Anpassung des Baugesetzbuchs an EU-Richtlinien (Europarechtsanpassungsgesetz Bau – EAG Bau) of June 24th, 2004 (BGBl. I 1359)

[232] The option of partial preparatory land-use plans was introduced by Section 5 (2b) of the European Law Adaptation Act for the Construction Sector

[233] Cf Runkel, Strukturwandel im Lebensmitteleinzelhandel und § 11 (3) BauNVO, Vortrag im 438. Kurs des Instituts für Städtebau „Städtebau und Recht", Berlin 2002

[234] For details see: Vietmeier, Die Steuerung des großflächigen Einzelhandels nach §§ 2 und 34 BauGB, in: Baurecht 3/2005, 480ff; Janning, Der Ausschluss des zentrenschädigenden Einzelhandels in unbeplanten Innenbereichen, in: Baurecht 11/2005; Gronemeyer, Die Zulässigkeit von großflächigem Einzelhandel, in: Baurecht 9/2006, 1410ff

[235] Cf Begründung zum Entwurf des Gesetzes zur Erleichterung von Planungsvorhaben für die Innenentwicklung der Städte, in: BT-Drs. 16/2496, 9

ding Code.[236] A new section 171f has been inserted to promote private initiative in urban development. In accordance with state law and notwithstanding other measures under the Building Code, it allows the designation of areas for site-related projects in private responsibility pursuing a concept in keeping with the urban development goals of the community for strengthening or developing inner-city areas, neighbourhood centres, residential areas, and commercial centres, as well as other areas of importance for urban development. Arrangements may be made by state legislation with regard to the financing of measures and the equitable distribution of the expenditures involved.

In urban agglomerations, core cities and surrounding communities are seeking to join forces to replace the existing state regional planning tools by locally controlled planning, by *regional preparatory land-use plans*,[237] and thus to elaborate more adequately focused plans and exert greater influence on spatial development.[238]

Cross-border *flood control*[239] has become increasingly important in the aftermath of recent flood disasters. Like climate and environmental protection, flood control is a regional and transnational, European matter. At the national level, the legal framework for preventive flood control has been considerably expanded by amendment of the Federal Water Act, the Spatial Planning Act, and the Building Code.[240]

Cross-border cooperation is required in all fields of environmental protection, including flood control, climate protection, transnational transport networks, tourism, and industry. EU enlargement to the East, in particular, poses new challenges for spatial planning at the federal and state levels, notable in the new states. Joint transnational planning is being prepared or is already being put into effect in many fields of essential public services.

The *enlargement of the European Union* focuses attention on the impact of a forward-looking spatial development policy in Germany on spatial structures and regional development. Appropriate strategies for action are not only being developed by local authorities, to some extent in international cooperation and with the support of the Federal Government and the EU; at the European level, too, rules and procedures are being adapted to the needs of an enlarged union. The federal and state governments need to examine the effects of enlargement and to develop suitable strategies.

[236] Cf Section 9 (2a) of the Building Code
[237] Cf Section 9 (6) of the Federal Spatial Planning Act
[238] Cf Schmidt-Eichstaedt, Flächenutzungsplanung nach einer Gebietsreform, in: Baurecht 7/2004, 1102ff
[239] Cf Bundesministerium für Verkehr, Bau und Stadtentwicklung (ed.), Hochwasserschutzfibel
[240] For detailed treatment see: Hünnekens/Arnold, Bauen in Überschwemmungsgebieten – Neuerungen durch das Hochwasserschutzgesetz, in: Baurecht 8/2006, 1232ff

2. Legislation and Jurisdiction in the Planning System

2.1. Legislative Powers and the Statutory Framework at the Various Levels of Planning

A distinction is drawn in spatial planning between comprehensive spatial planning and sectoral planning. Comprehensive spatial planning is cross-sectional at all planning levels, whereas sectoral planning addresses single, mostly technical infrastructure sectors, dealing with specific projects like railways, airports, and waterways.[241]

The Federation and the states have made use of their respective legislative powers to regulate comprehensive spatial planning and sectoral planning. In 2006, the legislative competencies of the Federation and the states were reorganised under the so-called "federalism reform." For details see chapter I.2.2.

Since the abolition of framework legislation, the Basic Law now provides for exclusive legislative powers of the Federation and concurrent legislative powers.

Exclusive legislative powers are vested in the Federation for the fields enumerated in Article 73 nos. 1 to 14 of the Basic Law. In sectoral planning law they include air traffic (no. 6); the operation of railways wholly or predominantly owned by the Federation (federal railways), the construction, maintenance, and operation of tracks belonging to federal railways, as well as the imposition of charges for the use of such tracks (no. 6a); postal and telecommunication services (no. 7); the production and utilisation of nuclear energy for peaceful purposes, the construction and operation of facilities serving such purposes, protection against hazards arising from the release of nuclear energy or from ionizing radiation, and the disposal of radioactive substances (no. 14).

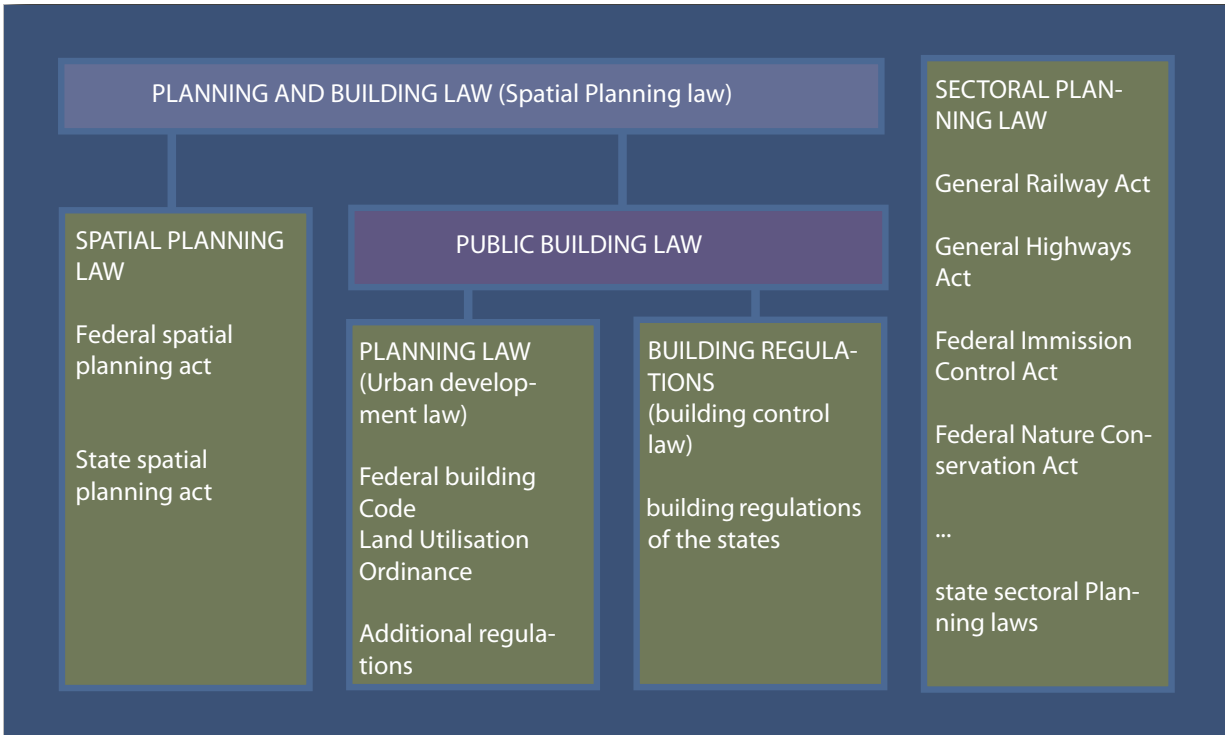


Figure II.3: Structure of the Planning Law (adapted from Turowski 1999)

[241] On the relationship between urban land-use planning and comprehensive spatial and sectoral planning see: Erbguth, Bauplanungsrecht, Verlag C.H. Beck München 1989, 26ff

Competence of local authorities	Preparation and updating	Binding effect	Judicial review
Preparatory land-use plan	Necessity under Section 1 (3) of the Building Code Planning horizon ca 15yrs	Binding on public authorities	Concrete judicial review by administrative court
Binding land-use plan	Necessity under Section 1 (3) of the Building Code	Municipal statute, bye-law	Judicial review by higher administrative courts and concrete review by administrative court
Other statutes pursuant to the Building Code	Discretionary (e.g. statutes under Section 34 of the Building Code or mandatory (e.g. land improvement charges bye-law)	Municipal statute, bye-law	Judicial review by higher administrative courts and concrete review by administrative court

Figure II.4: Local Authority Powers (own diagram)

Under Article 72 (1) of the Basic Law, the states have power to legislate on matters falling under concurrent legislative competence, so long as and to the extent that the Federation has not exercised its legislative power by enacting laws. Under Article 72 (2) of the Basic Law as amended, the Federation has the right to legislate on these matters if and to the extent that the establishment of equal living conditions throughout the federal territory or the maintenance of legal or economic unity renders federal regulation necessary in the national interest. The proof required under Article 72 (2) of the Basic Law as amended must be furnished for the matters listed. If the Federation exercises its right of concurrent legislation, the states may legislate for deviating arrangements in the areas listed in Article 72 (3) nos. 1 to 6).

The areas enumerated in Article 74 nos. 1 to 33 fall under concurrent legislation. In the field of spatial and sectoral planning, they include: mining (no. 11); the law regarding expropriation, to the extent relevant to matters enumerated in Articles 73 and 74 (no. 14); the promotion of agricultural production and forestry (with the exception of the law relating to land reallocation), preservation of the coasts (no. 17); real property transactions, land law (except for laws respecting development fees), the law relating to housing benefit, the regulation of assistance with old debt, miners' housing construction law and miners settlement law (no. 18); road traffic, motor transport, construction and maintenance of trunk roads, as well as the collection of tolls for the use of public highways by vehicles and the allocation of the revenue (no. 22); non-federal railways, except mountain railways (no. 23); waste disposal, air pollution, and noise abatement (except for protection against behaviour-related noise) (no. 24); land distribution (no. 30); spatial planning (no. 31); and water resources (no. 32). All areas of law not enumerated in Article 72 or 74 of the Basic Law fall within the legislative remit of the states. Among the most important competencies of the states is the law relating to culture (e.g. conservation of historic monuments) and regulatory law (e.g. building control law, police law).[242]

Certain areas in spatial planning have been affected by the abolition of framework legislation (Article 75 of the Basic Law as amended), like the law relating to comprehensive spatial planning and nature conservation. Where areas are transferred to the legislative remit of the Federation or to concurrent legislation, former framework law, including the legislative powers and obligations of the states it contains, persists as federal law (Article 125b (1) of the Basic Law). Even after the federalism reform has come into force, the states are entitled and obliged to regulate matters as required under the old framework legislation until such time as the Federation makes use of its new legislative powers.[243]

[242] Cf Schmidt-Eichstaedt, Städtebaurecht, 11f
[243] Cf Bericht über die Auswirkungen der Föderalismusreform auf die Vorbereitung von Gesetzentwürfen der Bundesregierung und das Gesetzgebungsverfahren, BR-Drs. 651/06, 3

Implementation of planning law by local authorities

Under Article 28 (2) of the Basic Law, local authorities have the right to regulate all the affairs of the local community on their own responsibility within the limits set by law. Within the limits of their statutory functions, associations of municipalities also have the right of self-government according to the law. Local self-government finds expression in personal sovereignty, financial autonomy, organisational autonomy, fiscal jurisdiction, and planning autonomy. Planning autonomy means having political and administrative freedom to decide on the uses to which land in the territory of the municipality is to be put without all-embracing and strict control by higher tiers of government, and to develop the planning guidelines needed to realise the potential for autonomous action without imperative governmental influence being exerted.[244] For this purpose, local authorities use the tools of planning law (urban development law).

Urban development law

Planning autonomy includes the power of local authorities under the Building Code to prepare urban land-use plans on their own responsibility. In the Building Code and secondary legislation (Land Utilisation Ordinance, Plan Notation Ordinance, Valuation Ordinance) for the implementation of the code, the Federal Government has provided local authorities with the legal basis for controlling the use of land. On the basis of the Building Code, local authorities can adopt binding land-use plans in the form of bye-laws. However, municipalities are required to adapt their plans to the aims of (federal and state) spatial planning. This means, in effect, that federal and state spatial planning goals are to be implemented. At the same time, their constitutional guarantee of self-government gives local authorities the right to participate in planning and measures carried out by federal and state government departments. Such participatory rights are recognised for all government planning and measures that can affect municipal planning and other autonomous functions. Participation in this sense refers to the right to be informed and heard.[245]

Building control law (building regulations)

Building control law or building regulations deal with specific physical structures and buildings. Material building control law serves to avert dangers, to prevent unsightly development, and ensure the observance of social and ecological standards for healthy housing and working conditions. Formal building control law regulates building supervisory procedures and hence the enforcement of planning law with regard to the authorisation of projects, the enforcement of material building law, and the enforcement of related legislation pertaining to roads, water, landscape conservation, and the conservation of historic monuments.[246] Planning approval and permission procedures thus couple urban development law with building control law.[247] On the basis of state building regulations, municipalities and counties examine the permissibility of building projects and authorise them by administrative act. State building regulations empower local authorities to prepare local building regulations.

2.2. The System of Administrative Courts

The system of administrative courts exercises judicial control over administrative activities. The administrative courts set up under Article 95 of the Basic Law provide for the constitutionally guaranteed reviewability of all administrative acts. They are responsible for non-constitutio-

[244] Cf Stüer, Bauleitplanung, Rn. 18
[245] For details see Stüer, Bauleitplanung, Rn. 20ff
[246] Cf Hoppe/Bönke/Grotefels, Öffentliches Baurecht, § 1 Rn. 7
[247] Cf Hoppe/Bönker/Grotefels, Öffentliches Baurecht, § 1 Rn. 7

nal public-law disputes (Section 40 (1) of the Code of Administrative Court Procedure).[248] The statutory basis for administrative court proceedings is the Code of Administrative Court Procedure. The principle of official investigation applies for these proceedings (Section 86 (1)).

The system of administrative courts has three levels. In each state there are administrative courts (*Verwaltungsgericht – VG*) and a higher administrative court (*Oberverwaltungsgericht – OVG* in some states called *Verwaltungsgerichtshof – VGH*), and at the federal level there is the Federal Administrative Court (*Bundesverwaltungsgericht – BVerwG*) in Leipzig (Section 2). The administrative court is a court of first instance for all disputes falling within the remit of the system (Section 45).

The higher administrative court is a court of appeal from judgments and other decisions brought down by administrative courts (Section 46). Within its purview, the higher administrative court rules on application on the validity of bye-laws and local statutes issued pursuant to the Building Code and of ordinances pursuant to Section 246 (2) of the Building Code, as well as other legal provisions subordinate to state statutes where state law so provides (Section 47) (judicial review). The higher administrative court also rules in first instance on all disputes concerning matters enumerated in Section 48 (1) nos. 1 to 9. They include:

- the construction, operation, and alteration of power stations fired by solid, liquid, and gaseous fuels with a thermal output of more than 300 MW;
- planning approval proceedings for the erection and operation or alteration of high-voltage overhead transmission lines with a nominal voltage of 110 kV or more, underground lines with a nominal voltage of 110 kV, or gas lines with a diameter of more than 300 mm, and any modification of routing;
- procedures for erecting, operating and substantially altering stationary facilities for the incineration or thermal degradation of waste with an annual throughput of more than 100,000 tonnes, and of stationary facilities in which waste is completely or partially stored or deposited within the meaning of Section 41 (1) of the Waste Avoidance, Recycling and Disposal Act;
- the construction, extension, or alteration and operation of civil aviation airports and airfields with restricted building protection areas;
- planning approval procedures for the building or alteration of new sections of tramways, magnetic levitation railways, and public railways, as well as for the construction or alteration of shunting and container stations;
- planning approval procedures for the construction or alteration of federal trunk roads;
- planning approval procedures for the construction or alteration of federal waterways.

The higher administrative court also has jurisdiction to hear disputes on permits issued in lieu of planning approval, and disputes concerning all permits and authorisations required for a project, also those concerning ancillary facilities that are spatially or operationally connected with the project (Section 48 (2) of the Code of Administrative Court Procedure).[249]

The Federal Administrative Court hears appeals from judgments of higher administrative courts by virtue of Section 132, from judgments of administrative courts by virtue of Sections 134 and 135, and from complaints by virtue of Section 88 (2) and Section 133 (1) of the Code of Administrative Court Procedure and Section 17a (4) sentence 4 of the Judicature Act (*Gerichts-*

[248] Verwaltungsgerichtsordnung (VwGO) of 21 Januar 1960 (BGBl. I, 17) as promulgated on 19.03.91 (BGBl. I 686), amended by Art 3 of the act of 21.12.06 (BGBl I 3316) Section 62 (11) of the act of 17. June 2008 (BGBl. I, 1010)

[249] For other competencies see Section 48 of the Code of Administrative Court Procedure.

verfassungsgesetz – GVG). The Federal Administrative Court rules in first and final instance on the disputes and actions enumerated in Section 50 (1) nos. 1 to 6. They include:

- non-constitutional public-law disputes between the Federation and the states and between states;
- actions against measures and decisions under Section 44a of the Members of the Bundestag Act and the rules of conduct for members of the Bundestag;
- all disputes affecting planning approval and permission proceedings for projects enumerated in the General Railway Act, the Federal Highways Act, the Federal Waterways Act, or the Magnetic Levitation Railway Planning Act.

Appeals (*Berufung*) from judgments may be filed under Section 124 (1) of the Code of Administrative Court Procedure if admitted by the administrative court or the higher administrative court. The admissibility of appeals is regulated by Section 124 (2) nos. 1 to 5 of the Code of Administrative Court Procedure. The administrative court will admit an appeal if the case is of fundamental importance or if the judgment diverges from a ruling by the higher administrative court, the Federal Administrative Court, the joint senate of the supreme federal courts or the Federal Constitutional Court, and the appeal is based on this divergence (Section 124a (1)). If admitted by the administrative court, the appeal is to be filed within one month, and substantiated within two months of the complete judgment being served (Section 124a (2) and (3)). If the judgement brought down by the administrative court does not provide for an appeal, a motion to that effect must be filed within a month of the complete judgment being served (Section 124a (4)). In both cases, the grounds for appeal are to be submitted to the higher administrative court unless they are submitted with the appeal or motion (Section 124a (3) and (4)). If the higher administrative court grants the motion for appeal, authorisation proceedings will continue as appeal proceedings (Section 124a (5)). The grounds for appeal are to be submitted within one month to the higher administrative court (Section 124a (6)). The higher administrative court considers the dispute within the scope of the motion for appeal to the same extent as the administrative court. Under certain circumstances (Section 128a), it also takes account of new facts and evidence (Section 127). The higher administrative court has to hear the necessary evidence and rule on the matter itself by judgment (*Urteil*) or decision (*Beschluss*) (Section 130 (1) and 130a). Under certain circumstances, the judgment can be set aside and the case remitted to the administrative court (Section 130 (2)).[250]

An appeal on points of law (*Revision*) is admissible from a judgment of the higher administrative court (Section 49 (1)) and from decisions under Section 47 (5) sentence 1 if the higher administrative court or, upon dismissal of a motion for appeal, the Federal Administrative Court has granted it. The grounds for an appeal on points of law are set forth in Section 132 (2) of the Code of Administrative Court Procedure. An appeal on an issue of law can be based only on the elements enumerated in Section 137 and 138 of the Code of Administrative Court Procedure. Appeal is possible from dismissal of a motion of appeal on a point of law (Section 133 (1)). A leap-frog appeal is possible from the judgment of the administrative court (section 49 no. 2 of the Code of Administrative Court Procedure) if plaintiff and defendant agree in writing and if it is admitted in the judgment of the administrative court or, on application, by court order (Section 134 (1)). The parties can appeal on a point of law from an administrative court judgment (Section 49 (2)) to the Federal Administrative Court if an appeal is excluded by federal law (Section 135). An appeal on issues of law can be filed only if the administrative court or, upon appeal from refusal to admit same, the Federal Administrative Court has granted leave.

[250] For further details on appeal proceedings see Sections 124 to 130b of the Code of Administrative Court Procedure.

An appeal on a point of law is to be lodged within one month with the court that has brought down the decision and is to be substantiated within two months, in each case after service of the complete judgment or decision. If the appeal from refusal of leave to appeal on a point of law is successful or if the appeal is granted, proceedings continue as proceedings on appeal. An inadmissible appeal is dismissed, an unfounded appeal is denied (Section 144 of the Code of Administrative Court Procedure). In the case of a well-founded appeal, the Federal Administrative Court can itself decide or reverse the judgment and remit the case (Section 144). [251]

Appeals from decisions of the administrative court, the presiding or reporting judge, which are not judgments or court notices, lie to the higher administrative court (Section 146). Excluded are procedural orders, orders for clarification, decisions on adjournment or the setting of deadlines, orders to take evidence, orders on the refusal of motions for the admission of evidence, on the joining and severance of proceedings and claims, and on the disqualification of judicial personnel (Section 146 (2)).[252]

2.3. Legal Remedies before the Administrative Courts

Legal remedies against statutory law, land-use plans and other urban development statutes.

Judicial review by the Federal Constitutional Court

In case of disagreement on the constitutionality of legislation, the Federal Government, a state government, or one third of the members of the Bundestag may apply to the Federal Constitutional Court to review the legislation in question (abstract judicial review (Article 93 (1) no. 2 of the Basic Law). Where a court considers that a law on whose validity its ruling depends is unconstitutional (state constitution or Basic Law), it can stay proceedings and seek a ruling from the competent state court or the Federal Constitutional Court (Article 100 (1) of the Basic Law).

Judicial review by administrative courts

Under Section 47 (1) of the Code of Administrative Court Procedure, a higher administrative court may review:

- bye-laws and statutes pursuant to the Building Code and ordinances under Section 246 (2) of the Building Code, and
- other legal provisions lower in rank than state law, where state law so provides.

Review proceedings examine compliance with the binding formal and material planning provisions of the land-use plan or another urban development statute. Judicial review may be requested by all natural and legal persons claiming that their rights are or in the foreseeable future will be violated by the legal provision or its application, as well as by all public authorities. An application for judicial review can be filed only within one year of promulgation of the legal provision (Section 47 (2) of the Code of Administrative Court Procedure). According to Section 47 (2a) of the Code, an application by a natural or legal person with respect to a binding land-use plan or a statute under Section 34 (4) sentence 1 nos. 2 and 3 or Section 35 (6) of the Building Code is inadmissible if the applicant raises objections that were not raised, or not raised in due time, in the context of public display (Section 3 (2) of the Building Code) or of public participation (Section 13 (2) no. 2 and Section 13a (2) no. 1), but which could have been raised on these occasions, and where attention was drawn to this legal consequence in the context of participa-

[251] For further details on proceedings for appeals on points of law see Sections 132 to 144 of the Code of Administrative Court Procedure.
[252] For further details on procedure for appeals from the dismissal of motions concerning procedural issues (*Beschwerden*) see Sections 146-152 of the Code of Administrative Court Procedure.

tion. The higher administrative court brings down a judgment (*Urteil*) or, if it considers an oral hearing not to be necessary, a decision (*Beschluss*). If the higher administrative court concludes that the legal provision is invalid, it declares it to be null and void; in this case the decision is generally binding and is to be published by the opponent in the same manner as the provision (Section 47 of the Code of Administrative Court Procedure). In judicial review proceedings an interim order is to be issued if this is urgently required to prevent serious disadvantages or for other good cause (Section 147 (6) of the Code of Administrative Court Procedure).[253]

A preventive application for an injunction (*Unterlassungsklage*) or action for a declaration (*Festellungsklage*) against urban development statutes are possible if, even before instigation of any judicial review proceedings, a fait accompli is to be feared.[254] The direct review of binding land-use plans by means of constitutional appeal (*Verfassungsbeschwerde*) under Article 93 (1) no. 4a of the Basic Law in conjunction with Section 90 of the Federal Constitutional Court Act has recently been allowed by the Federal Constitutional Court.[255]

The intensity of reviewing binding land-use plans and other urban development statutes is considerably restricted by Sections 214 and 215 of the Building Code.[256] The violations of the Code dealt with in these sections have varying consequences. They range from general irrelevance to relevance in the case of complaints (*Rüge*) lodged in due form and time, and to the invalidity of the plan or statute.[257]

The principle of plan maintenance under Section 214 (4) of the Building Code permits the step-by-step correction of defective plans and avoids having to repeat the entire planning procedure.[258] The local authority can put a preparatory land-use plan or a municipal statute/bye-law into force retrospectively if the defects can be eliminated in supplementary proceedings.[259]

A binding land-use plan can be challenged not only by means of abstract judicial review but also by concrete review (*Inzidentkontrolle/inzidente Normenkontrolle*). In contrast to abstract judicial review it is not subject to any time limit and can be undertaken in all judicial proceedings in which the decision depends essentially on whether a certain binding land-use plan is valid or not.[260] In contrast to abstract judicial review, concrete judicial review does not determine the invalidity of a plan with generally binding effect.[261]

The preparatory land-use plan is not subject to judicial review, nor can it be challenged by an action to annul a decision (*Anfechtungsklage*), to compel a decision (*Verpflichtungsklage*), or to obtain a declaration (*Feststellungsklage*), since it is neither a legal norm nor an administrative act.[262] However, concrete judicial review can be undertaken in all judicial proceedings in which the decision depends essentially on whether the preparatory land-use plan is valid or not.

Legal remedies against individual decisions

Refusal of building permission: The party affected by a refusal of building permission can obtain performance of the refused or omitted administrative act by bringing an action to compel such performance (*Verpflichtungsklage*) (Section 42 (1 2) of the Code of Administrative Court Procedure). Before an action can be brought, preliminary proceedings pursuant to Sections 68ff

[253] For detailed treatment see: Hoppe/Bönker/Grotefels, Öffentliches Baurecht, § 17
[254] Cf Hoppe/Bönke/Grotefels, Öffentliches Baurecht, § 17 Rn. 37
[255] Cf Hoppe/Bönke/Grotefels, Öffentliches Baurecht, § 17 Rn. 39 with further references
[256] Cf Hoppe/Bönke/Grotefels, Öffentliches Baurecht, § 17 Rn. 37 with reference to BVerfG vom 21. 11. 1986 – 4 C 22.83, BVerfGE 70, 35ff
[257] Cf Hoppe/Bönke/Grotefels, Öffentliches Baurecht, § 17 Rn. 39
[258] Cf Hoppe/Bönke/Grotefels, Öffentliches Baurecht, § 17 Rn. 40
[259] For detailed treatment see: Battis, in: Battis/Krautzberger/Löhr, BauGB, Vorbemerkungen §§ 214-216, §§ 214-216
[260] Cf Kuschnerus, Der sachgerechte Bebauungsplan, Rn. 764
[261] Cf Kuschnerus, Der sachgerechte Bebauungsplan, Rn. 764
[262] Cf Hoppe/Bönke/Grotefels, Öffentliches Baurecht, § 17 Rn. 4

of the Code are, with certain exceptions, to be carried out. Under certain circumstances, provisional legal protection can be granted (Sections 80 and 80a). Preliminary proceedings are instigated by lodging an objection. It must be lodged in writing or declared for minuting with the authority that has issued the administrative act within one month of the administrative act being published (Section 70). If the authority deems the objection to be justified, it takes remedial action (Section 70). If no remedial action is taken, a decision on the objection is issued (Section 72) against which an action to compel performance can be brought within one month of service of the decision (Section 74 (1) and (2)). Under certain circumstances, provisional legal protection can also be granted under Section 123. The date of the last oral hearing is relevant for the decision on the action.

Divergence of building permission from building application: In practice it occurs relatively frequently that the developer/builder is granted building permission subject to ancillary provisions within the meaning of Section 36 of the Administrative Procedures Act to which he wishes to object. According to the prevailing view, however, and regardless of the legal form of the ancillary provision and the resulting procedural consequences, the developer is generally prevented from implementing building permission while taking action against the ancillary provision.[263]

Delayed buiding permission: If the building permission applied for by the developer is not processed at all or not within a reasonable period, he may bring an action for performance in the form of a so-called "inactivity action" (*Untätigkeitsklage*) (Section 75 sentence 1 of the Code of Administrative Court Procedure) before the administrative court. As a rule and under normal circumstances, at least three months is deemed a reasonable period (Section 75 sentence 2).

Third party challenges to building permission: In addition to the developer, a third party (e.g. neighbour or municipality) can bring an action against a building permit. Accoding to Section 212a (1) of the Building Code in conjunction with Section 80 (2) sentence 1 no. 3 of the Code of Administrative Court Procedure, a third-party objection has no suspensory effect. However, the third party may apply to the competent authority for a stay to immediate implementation under Section 80a (1) no. 2 in conjunction with Section 80 (4) of the Code of Administrative Procedure. The developer may react to this stay in accordance with Section 80a (3) in conjunction with Section 80 (5) of the Code and apply for annulment of the authority's decision. If the authority allows the objection of the third party, the developer may bring an action to annul the decision before the administrative court without the necessity of protest proceedings.

Legal protection against intervention orders of the building supervisory authorities: If any public-law provisions are contravened in carrying out building measures or using physical structures, the building authority may intervene. They may, for example, stop works, forbid use, or order demolition of physical structures. The developer can challenge such intervention by the building authorities by lodging an objection, and, where unsuccessful, by bringing an action to annul the decision before the administrative court. With respect to this latter action, the relevant date for assessing the factual and legal position is, unlike in the case of an action to compel a decision, the date of the last decision taken by the authority.[264] Under Section 80 (1) of the Code of Administrative Court Procedure, the objection and the action for annulment have suspensory effect. The building authority can, however, order immediate execution under Section 80 (2) no. 4 of the Code. Under provisional legal protection, the developer can challenge this order in accordance with Section 80 (5) of the Code).

[263] Cf Hoppe/Bönker/Grotefels, Öffentliches Baurecht, § 17 Rn. 21ff, especially for detailed account of legal opinions
[264] Cf Hoppe/Bönker/Grotefels, Öffentliches Baurecht, § 18 Rn. 28

Legal protection for adjoining owners: Although adjoining owners are not the direct addressees of official measures under public building law, they can challenge projects of neighbouring builders and developers and claim the protection of the authorities and the courts.[265] In Germany a distinction is made between protection for adjoining owners under public law and under private law.[266]

[265] Cf Hoppe/Bönker/Grotefels, Öffentliches Baurecht, § 18 Rn. 29
[266] Cf detailed treatment in: Hoppe/Bönker/Grotefels, Öffentliches Baurecht, § 18ff

3. General Description of the Levels of Spatial Planning

The function of planning is to guide and structure space in order to attain the various goals of balanced spatial development. These goals differ strongly from planning level to planning level. They range from specific requirements relating to the use of land in local urban development planning to the abstract models and guidelines advanced by federal spatial planning policy.

3.1. Supra-Local Planning Levels

3.1.1. Introduction

Spatial planning at the federal and state levels comprises all comprehensive, supra-local and superordinate activities for structuring and developing space. It is "comprehensive" in the sense that it has the job of coordinating spatially significant sectoral planning. It is "supra-local" in that its scope is beyond that of the territorial and material, autonomous scope of the individual local authority. The comprehensive and supra-local nature of spatial planning gives it "superordinate" status in the German planning system. All public planning authorities have to comply with or take account of the requirements of spatial planning in any spatially significant planning and measures they undertake. Planning and measures are said to be "spatially significant" if they make use of land or influence the spatial development of an area. According to the Federal Spatial Planning Act and state spatial planning acts, the task of spatial planning is to guide and develop spatial structure in the pursuit of sustainable spatial development.

In Germany, the essential purposes of spatial planning are elaborated and implemented by a range of tools on three levels:

- federal spatial planning,
- state spatial planning,
- regional planning.[267]

3.1.2. Federal Spatial Planning

Given the federal structure of German government, there is no *overall, central planning authority*.[268]

In the Federal Spatial Planning Act, the Federation lays down the tasks and guidlines (Section 1) and principles (Section 2) of spatial planning, providing a framework for state spatial planning acts.

The main aspects of federal spatial planning include:

- guidlines of spatial planning,
- principles of spatial planning,
- goals of spatial planning.

The *guidlines of spatial planning* provide the material basis and set the framework for spatial development. The key concept is "sustainable spatial development." According to Section 1 (2) of the Federal Spatial Planning Act, sustainable spatial development is defined as bringing the social and economic demands made on a area into line with its ecological functions, producing a stable and well-balanced order throughout. These guidlines of spatial planning include the elaboration of a spatial development concept that:

[267] Cf Turowski, Raumplanung (Gesamtplanung), in: ARL (ed.), Handwörterbuch der Raumordnung, 896
[268] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung, 867

- ensures the right to self-fulfilment within the community in responsibility to future generations,
- ensures the conservation and development of natural resources,
- ensures long-term scope for action on land use,
- eliminates regional and structural imbalances.[269]

The *principles of spatial planning* are general precepts concerning the development, structuring, and securing of spatial entities to be taken into account in weighing interests and making discretionary decisions. They are laid down by the Federation and can be supplemented by the states. These principles have to be taken into account by public agencies in spatially significant plans and measures. Examples of the principles set by the Federal Spatial Planning Act are maintenance of a decentralised settlement structure, the conservation and restoration of open spaces, the provision of the population with basic technical infrastructure for utility services, etc.[270]

The *goals of spatial planning* are binding provisions in the form of spatially and substantively specified, definitive requirements. These goals are not determined by the Federation. This is the task performed in written and graphic form by state and regional planners in spatial structure plans (cf chapter II.3.1.3, II.3.1.4).271

Apart from the guidlines and principles of spatial planning, the act contains:

- provisions on state spatial planning (especially spatial structure plans and regional plans),
- provisions on the coordination of spatially significant planning,
- provisions on spatial planning procedure (cf chapter II.1.4.2),
- provisions on the tasks of the Federation in the field of spatial planning.[272]

Notwithstanding the tasks and powers of the states, the federal ministry competent for spatial planning works towards realising the principles of spatial planning in accordance with the guidlines of such planning and the mutual feedback principle. On the basis of the regional plans and in cooperation with supreme state authorities responsible for regional planning, it primarily develops guiding principles for the regional development of the national territory and covering matters transcending individual states, thus providing a basis for the coordination of spatially significant plans and measures between the Federal Government and the European Union, subject to the applicable provisions.

A number of programmatic statements on *spatial development* have been elaborated:

- the Spatial Planning Programme (1975),
- the Spatial Planning Policy Guidelines (1993),
- the Framework for Action in Spatial Planning Policy (1995),
- the Spatial Planning Report (current edition 2005),[273]
- the Guidelines for the Spatial Development of the Federal Territory (2006).[274]

[269] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung, 866
[270] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung, 867
[271] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung, 867
[272] Cf Treuner, et al., Handwörterbuch der Raumordnung, 864
[273] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung, 868
[274] Cf .bbr.bund.de/cln_007/nn_22518/DE/ForschenBeraten/Raumordnung/RaumentwicklungDeutschland/LeitbilderKonzepte/leitbilderkonzepte__node.html__nnn=true, Zugriff am 06.12.2006

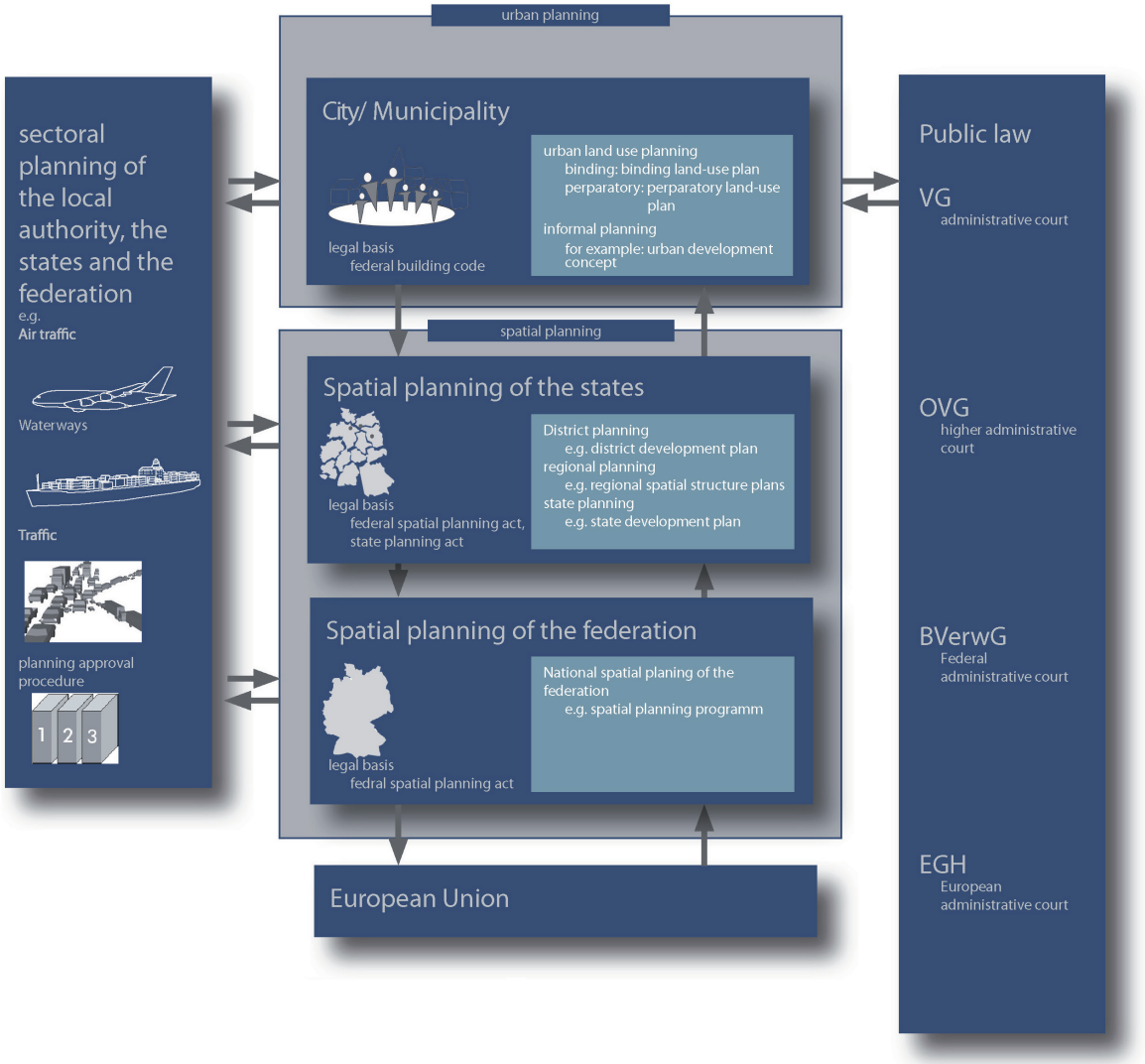


Figure II.5: Levels of the spatial planning system, the sectoral planning and the public law (own illustration)

The *Spatial Structure Programme* set goals in adapting federal planning with significant spatial impact. This formal programme was intended as the beginning of coordination in spatial planning policy between the federal and state governments. However, it did not prove effective, so that no further such programme followed at the federal level.[275]

Such a conceptual basis was provided by the Spatial Planning Policy Guidelines (*Raumordnungspolitische Orientierungsrahmen – ORA*), elaborated by federal spatial planning in collaboration with the states in 1993. The Spatial Planning Policy Guidelines envisage future spatial structure with the aid of:

- a vision for settlement structure,
- a vision for the environment and land use,
- a vision for transport,
- a vision for Europe,
- a vision for structure and development.

[275] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung, 868f

For each of these visions or models, the ORA provides strategies for Germany as a whole.[276] The policy guidelines were worked out in more detail in the 1995 Framework for Action in Spatial Planning Policy (*Raumordnungspolitischer Handlungsrahmen – HARA*).

The most important aspects dealt with are presented below. The "structure and development" model, in particular, proposes a number of targets for state spatial planning. This spatial planning concept proceeds on the assumption that the former marked *contrast between city and country* in many parts of Germany is disappearing and that city networks, urbanisation trends, and the development of new urban landscapes mean that functional changes will shape future development. It is claimed that, owing to the strong links between cities and surrounding areas, the spatial structure of the country is strongly determined by urban forms and urban lifestyles. Urban agglomerations and rural regions are no longer opposites: they complement one another. Living conditions in the two types of area are becoming more and more similar. Rural areas are not necessarily structurally weak. Only peripheral areas present problems. Such areas generally play an important role in landscape conservation, in maintaining the ecological balance, and in protecting resources.[277] The decentralized settlement structure that has evolved in the course of history has proved a major locational advantage for Germany over other countries. Enhancing endogenous regional potentials and distributing functions among existing centres can positively influence spatial and settlement structure even in regions distant from agglomerations. Among the strategies proposed is to reinforce decentralised structures and to concentrate subsidies on existing centres. This model of decentralized concentration also governs other visions for transport, environment, and land use. The overall concept in integrated into the general European framework.

On 30th June 2006, the federal and state ministers responsible for spatial planning adopted new guiding principles and Strategies for Spatial Development in Germany (*Leitbilder und Handlungsstrategien für die Raumentwicklung in Deutschland*):

"Guiding principle 1: growth and innovation: With this guiding principle, spatial development policy seeks to bolster economic growth, particularly by promoting the knowledge society. All geographical areas are to be enabled to make their contribution by strengthening the strengths of each region.

Guiding principle 2: securing the provision of esential public services: Spatial planning remains committed to achieving equivalent living conditions in all parts of Germany. This vision addresses the dangers essential public services and facilities face owing to demographic change and tighter public finances.

Guiding principle 3: conserving resources, developing cultural landscapes: This guiding principle integrates the fundamental task of ensuring sustainable spatial planning in the new models and strategies."[278].

These guiding principles for spatial development and strategies update the 1993 Spatial Planning Policy Guidelines and the 1995 Framework for Action in Spatial Planning Policy.

The *Spatial Planning Report* provides information about past and future developments in spatial and settlement structure. It takes comprehensive stock of spatial development, of com-

[276] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung, 869f
[277] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (ed.), Handwörterbuch der Raumordnung, 869
[278] Cf www.bbr.bund.de/cln_007/nn_22518/DE/ForschenBeraten/Raumordnung/RaumentwicklungDeutschland/Leitbilder-Konzepte/leitbilderkonzepte__node.html__nnn=true, Zugriff am 06.12.2006

prehensive spatial planning and sectoral planning.[279] Section 21 of the Federal Spatial Planning Act requires the Federal Office for Building and Regional Planning (BBR) to provide regular reports to the federal ministry responsible for spatial planning for submission to the Bundestag. This is generally done every four years.[280]

Federal spatial planning uses various forms of report. We have already mentioned the federal *Spatial Planning Reports*, which provide information about state spatial planning, development trends, and planned and implemented spatial development measures. The Conference of Planning Ministers is advised by an *Advisory Council on Spatial Planning*, composed of representatives from local government, science, industry, management and labour. The Federal Office for Building and Regional Planning maintains an information system on regional development within the national territory. It continuously assesses, interprets and evaluates the general state of regional development and any changes as well as the consequences of such changes. The competent federal ministry makes the output of the information system available to the states.[281]

3.1.3. State spatial planning

State spatial planning works towards establishing and safeguarding equivalent and healthy living and working conditions in all parts of the state.[282] Its main job is to lay down principles and binding goals in spatial structure plans, which are prepared on the basis of all spatially significant sectoral plans pertaining to industry and commerce, transport, utilities, housing, labour and recreation, as well as nature conservation and environmental protection.[283] The most important tool in state spatial planning is the comprehensive, surpralocal, and intersectoral *state spatial structure plan* implementing federal planning principles, as well as state spatial development goals and ideas.[284] The name given such plans varies from state to state. They are termed state development plan (Landesentwicklungsplan), state spatial planning programme (*Landesraumordungsprogramm*), state development programme (*Landesentwicklungsprogramm*), etc.

Some state governments prepare *state development programmes* as a preparatory stage of the state development plan. The programme covers a great deal of ground and requires cross-sectoral coordination.

The *state development plan* deals with matters, which include:

- spatial structure,
- division of the state into potential settlement areas and open spaces to be preserved,
- safeguarding natural resources that deserve conservation,
- designation of special development centres and areas eligible for support,
- preparation of spatially significant public and private plans and measures.

As a rule, it contains both text, plans and maps, and deals with the entire territory of the state (scale ca. 1:300,000).[285]

Apart from principles of spatial planning for the spatial development and structure of the state, the state development plan presents goals for individual spatially significant projects of

[279] Cf Lutter, Raumordnungsberichte, in: ARL (ed.), Handwörterbuch der Raumordnung, 872
[280] Cf Lutter, Raumordnungsberichte, in: ARL (ed.), Handwörterbuch der Raumordnung, 873f
[281] Cf Sinz, Raumordnung/Raumordnungspolitik, in: ARL (Hrsg.), Handwörterbuch der Raumordnung, 871
[282] Cf Goppel, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 570
[283] Cf Goppel, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 563
[284] Cf Goppel, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 563
[285] Cf Hein, in: ARL (ed.), Methoden und Instrumente räumlicher Planung, 191

importance for the state.[286] The *main contents of state development plans* pertaining to spatial structure are:

- spatial categories (agglomerations, peripheral zones, rural areas),
- central places (high-order centres, middle-order centres, intermediate catchment areas),
- state development axes,
- separate regional development tasks for sub-areas.

Spatial categories: the states designate spatial categories in state development plans (e.g. regulatory areas/agglomerations, urban regions, rural areas) (see chapter II.1.5).287

Central places: in state development plans, the states deals with the area-wide provision of public and private services and with employment. The concept provides for a hierarchical classification of places (see chapter II.1.5).288

State development axes: settlement and communication corridors are a special spatial category, which have developed owing to the close spatial links between settlement development and efficient transport axes. High population density and traffic load with persistently dynamic settlement and traffic development make this type of area particularly problematic (cf chapter II.1.5).[289]

Separate regional development tasks for sub-areas: in the spatial/functional distribution of tasks, state spatial planning assigns specific functions to sub-areas. These functions can overlap and be prioritized (cf chapter II.1.5).[290]

State spatial planning is governed by the "mutual feedback principle" that prevails in German spatial planning (system of mixed top-down/bottom-up planning): the state development plan gives concrete form to the principles and goals of comprehensive spatial planning. All ensuing spatial planning, especially regional planning, local urban land-use planning, and specific sectoral planning must take it into account or adapt to it. The principles and goals of state spatial planning are to be borne in mind and, depending on the level of detail, to be observed as legally binding provisions.[291]

The Federal Spatial Planning Act makes the *preparation of state spatial structure plans* a statutory, mandatory task. State spatial planning acts provide the statutory basis for state development programmes and plans.[292]

State development programmes and plans are prepared by the highest state spatial planning authorities and adopted mostly by state parliament in statute form or by the state government in ordinance form.[293] Since the organisation of state spatial planning is not uniformly regulated for the country as a whole, it is entrusted to different government departments in the various states:

- ministry of the Interior
- ministry of economic affairs,
- ministry of the environment,
- ministry of agriculture,

[286] Cf Goppel, Konrad, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 563
[287] Cf Kistenmacher, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 223f
[288] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 162f
[289] Cf Kistenmacher, Achsenkonzepte, in: ARL (ed.), Handwörterbuch der Raumordnung, 19
[290] Cf Domhardt, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 189
[291] Cf Goppel, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 563
[292] Cf Turowski, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 896
[293] For details see Goppel, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 564

- minister president's office.

In non-city states in the Baltic Sea region, responsibility for state spatial planning is assigned as follows:

- Brandenburg: Ministry for Infrastructure and Spatial Planning (*Ministerium für Infrastruktur und Raumordnung*),
- Mecklenburg-Western Pomerania: Ministry for Labour, Building, and State Development (*Ministerium für Arbeit, Bau und Landesentwicklung*),
- Lower Saxony: Ministry for Rural Areas, Food, Agriculture, and Consumer Protection (*Ministerium für ländlichen Raum, Ernährung, Landwirtschaft und Verbraucherschutz*),
- Schleswig-Holstein: Ministry of the Interior (*Innenministerium*).

State development programmes and plans have a long-term planning horizon and are updated at regular intervals (generally every 10 years).[294] Section 7 of the Federal Spatial Planning Act and state spatial planning acts regulate procedures for preparation and amendment. In particular, environmental assessment and the participation of public authorities and the public are required.

In addition to the classical tools of state development programme, state development plan, regional plan, and spatial planning procedure, there are new strategies in state spatial planning. A number of *informal tools* have developed, also partly in use at the regional planning level. They have come into being in a context of changing spatial and structural conditions (German unification, EU integration, technological change). Such new tools include sub-area reports and spatial planning development concepts, cross-border development concepts, regional marketing concepts, and regional management. They aim to concentrate regional forces, enhance the self-awareness and identity of the region, and generate a spirit of optimism.[295]

3.1.4. Regional Planning

Regional planning coordinates land use matters of supra-local interest transcending municipal boundaries. It defends the general interests of a region against the particular interests of local authorities.[296]

According to the Federal Spatial Planning Act, it has an independent, legitimate mandate to:

- prepare and update the regional plan,
- integrate the landscape outline plan for the region into the regional plan,
- advise urban land-use planning authorities and other public and private planning agencies,
- collaborate in preparing and updating the state development plan and state sectoral development plans,
- engage in spatial planning proceedings,
- collaborate in state sectoral planning,
- take the initiative in regional policy to promote and develop the region,
- cooperate with regional agencies for joint programmes.[297]

[294] Cf Goppel, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 106
[295] Cf Goppel, Landesplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 563
[296] Cf Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 965
[297] Cf Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 965

Section 9 of the Federal Spatial Planning Act does not regulate all the procedural and substantive details of regional plans. This is the task of state spatial planning acts. Regional plans set out:

- to fill out and concretise the prescribed federal and state principles, goals, and other requirements of spatial planning (in the case of cross-border regional plans, those of the countries involved);
- to review the specific structural and development problems of the region and to develop appropriate objectives, taking due account of local government planning;
- to coordinate supraregional projects with regional needs, as well as interlinking the latter in a regional development concept and establishing them in the regional plan.

The Federal Spatial Planning Act provides for states whose territories encompass several large settlement centres – "catchment areas of several highest-order central places" to prepare regional plans. It also requires the involvement of superordinate and subordinate tiers of planning in regional planning in accordance with the "mutual feedback principle." Thus regional plans are not only to be developed on the basis of state spatial structure plans but local authorities are to be involved, where they do not carry out regional planning themselves in regional planning associations. Moreover, federal law requires measures to be taken for joint, cross-state regional planning for regions that transcend state borders. One example is the Rhine-Neckar Region (straddling Baden-Württemberg, Hessen, and Rhineland-Palatinate). [298] Section 9 (6) of the Federal Spatial Planning Act also permits the preparation of regional preparatory land-use plans (e.g. Frankfurt/Rhine-Main Planning Association).

The states are responsible for regulating regional planning, defining regions, and determining the content of regional plans. The respective state spatial planning acts provide the legal basis.[299]

Since competence for defining planning regions lies with the individual states, planning regions differ greatly in size, plans dealing with these regions go by a variety of names:

- regional plan (*Regionalplan*),
- regional development plan (*regionaler Entwicklungsplan*),
- area development plan (*Gebietsentwicklungsplan*).

Depending on how spatial planning is organised in the given state, it can be entrusted to various levels.[300] There are essentially *two organisational models for spatial planning*. State administrative authorities can be placed in charge of spatial planning (as in Mecklenburg-Western Pomerania and Schleswig-Holstein). Or it can be entrusted to local government in the form of regional planning associations (as in Brandenburg). These planning or regional associations are legal persons (statutory bodies) with their own planning staff and an association assembly composed of representatives from county-free cities and counties.[301] These differences in the organisation of regional planning have an impact on the territorial definition of planning regions. In states where regional planning has been entrusted to the intermediate state level, planning regions coincide with administrative districts (*Regierungsbezirke*). In most states with regional planning associations (*Planungsgemeinschaft, Planungsverband*, *Regionalverband*), planning regions tend to be defined in terms of spatial structural entities. In this context, the central place

[298] Cf Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 969
[299] Cf David, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 85
[300] Cf Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 968
[301] Cf Bentz/Frenzel, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 342f

classificatory principle plays an important role in defining regions.[302] In any case, planning regions encompass the territories of several county-free cities and counties. In Brandenburg, for example, the five planning regions cover between two and five cities and counties. Only in Lower Saxony is regional planning entrusted to counties.[303]

The *content, form, and main elements of regional plans* are difficult to compare, since they adapt to constantly changing situations and the varying demands of the individual regions. There are, however, core elements common to all regional plans.[304] They deal with territorial matters and with:

- settlement structure,
- open space structure,
- infrastructure.[305]

Among the settlement structure issues addressed is the designation of co-called central places[306] – localities offering certain social, cultural, and economic facilities and amenities serving not only their own population but also that a surrounding catchment area – other local authority functions, and areas for settlement development. The development of central places is an important approach to concentrating infrastructural and service facilities. It gives specific form to the concept of "decentralised concentration" in spatial structure. A distinction is drawn between high-order, middle-order, low-order and small centres, each to be endowed with specific infrastructural and service facilities and amenities (from university to shopping centre).[307] Central places and settlement axes constitute the basic pattern of settlement structure. In sparsely inhabited, rural regions a minimum endowment with public facilities can thus be ensured, since state spatial planning designates high-order centres not only in agglomerations but also in backward areas.[308] In some states, this system of central places has been supplemented by development axes of varying priority. Such point-axial systems differ considerably from state to state owing to differences in spatial and settlement structures.[309]

The aspects of regional planning relating to *open space structure* include the provision of habitat and nature conservation, regional, multifunctional green belts, ventilation corridors, local recreation, as well as the designation of areas for flood control and the extraction of near-surface mineral resources.[310]

For the *infrastructure*, regional planning determines sites and routes for transport infrastructure, locations and areas for utility services, for freight handling and wind power plants, or adopts the designations of sectoral plans.

The important role played by regional planning in spatial planning should be stressed. Only when given specific expression in the regional context do the principles of federal spatial planning and the goals of state spatial planning come fully to bear, thus attaining a degree of applicability that enables urban land-use planning to be specifically adapted (pursuant to Section 1 (4) of the Building Code) and sectoral planning to be taken into account.[311] The scale used for regional plans ranges from 1:50,000 to 1:100,000.

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[302] Cf Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 966
[303] Cf Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 968
[304] Cf Müller, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 242
[305] Cf Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 970
[306] Cf Müller, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 243
[307] Cf Turowski/Lehmkühler, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 162f
[308] Cf Treuner et al., Handwörterbuch der Raumordnung, 16 ff, 547ff
[309] Cf Kistenmacher, Achsenkonzepte, in: ARL (ed.), Handwörterbuch der Raumordnung, 18
[310] Cf Heinrichs, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 224 f
[311] Cf Schmitz, Regionalplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 965 f

Under the Federal Spatial Planning Act (Section 7) and the respective state spatial planning acts, public authorities and the general public are to given the opportunity to participate in regional plan preparation, which stretches over a period of years. Regional plans have a long-term planning horizon and are updated at regular intervals (generally every 10 years).[312]

Regional planning has tools other than the regional plan itself at its disposal. For instance, the implementation of regional planning goals is ensured by the involvement of regional planning in spatial planning procedures and environmental impact assessment. (see chapter II.1.4.2).

3.2. Local Land-Use Planning

3.2.1. Introduction

In the framework of local government planning autonomy, local authorities regulate urban development and the structure of their territories by means of urban land-use planning in their own responsibility.[313] Adapting their own planning to meet the goals of comprehensive spatial planning and state spatial planning, they control events at the local level.[314] Local government urban land-use planning has the task of preparing and guiding the use of land for building and other purposes in the municipal territory.[315]

Under Section 1 (3) of the Building Code, it is the responsibility of municipalities to prepare land-use plans as soon as and to the extent that they are required for urban development and structural planning. It is incumbent on the local authority to decide when and where this is the case. Urban development planning powers may be exercised by a local authority if it is in the general public interest.[316] Whether a specific plan really is needed cannot be decided on the basis of the necessity principle under Section 1 (3) of the Building Code but rather by virtue of the precept of a balance of interests under Section 1 (7). But anyone can initiate the preparation, amendment, and supplementation of plans provided that urban planning and development is in the public interest.[317] However, there is no right to the preparation, amendment, supplementation, or repeal of urban land-use plans (Section 1 (3) sentence 2 of the Building Code).

The preparatory land-use plan (*Flächennutzungsplan*) outlines the development envisaged for the entire municipal territory.[318] The territory of the municipality is not only the object of urban land-use planning and other local authority planning but also of supra-local, comprehensive spatial planning and regional planning. Supra-local plans are implemented and concretised through land-use plans adapted to the goals of spatial planning (Section 1 (4) of the Building Code and Section 4 (1) sentence 1 of the Federal Spatial Planning Act).[319] Sectoral planning under Section 38 of the Building Code enjoys a certain priority over urban land-use planning firstly as regards material exemption from project authorisation rules and secondly as regards urban land-use planning and its binding effects.[320] Public planning agencies involved in preparing a preparatory land-use plan under Sections 4, 13, and 13a are required to adapt their planning proposals to the this plan unless they have entered an objection to it.[321] The adaptation requirement serves to harmonise the uses for land proposed by the various public planning bodies.[322]

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[312] Cf Goppel, in: ARL (ed.), Grundriss der Landes- und Regionalplanung, 106
[313] Section 2 (1) of the Building Code
[314] Section 1 (4) of the Building Code
[315] Section 1 (1) of the Building Code
[316] Cf Löhr in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 26
[317] Cf Krautzberger in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 11
[318] Section 5 of the Building Code
[319] Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 4
[320] Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 6
[321] Section 7 of the Building Code
[322] Cf Löhr, in: Battis/Krautzberger/Löhr, BauGB, § 7 Rn. 2

Binding land-use plans are developed on the basis of preparatory land-use plans in the form of bye-laws (municipal statutes), laying down binding specifications for urban development. These specifications are in turn the basis for measures required under the Building Code such as the provision of local public infrastructure (land improvement), land reallocation, and compensation.[323]

3.2.2. Preparatory Land-Use Plan

The preparatory land-use plan[324] (*Flächennutzungsplan*) outlines the types of land uses envisaged for the entire municipal territory in accordance with the urban development proposed to meet the anticipated needs of the municipality. The particular importance of the preparatory land-use plan for urban development is that it sets out the fundamental decisions of a community on how and for what purposes (building, transport, agriculture, forestry, recreation, nature conservation, etc.) the land available can and should be beneficially and appropriately used. It provides the framework and basis for binding land-use plans. The aims of comprehensive spatial planning and of state spatial planning, in turn, provide the framework for the preparatory land-use plan (Section 1 (4) of the Building Code; Section 4 (1) of the Federal Spatial Planning Act). Recourse is also had to the principles and goals developed in cross-sectional, informal planning like sectoral or sub-area development plans.[325]

The content of the preparatory land-use plan is described in chapter II.1.5.

The preparatory land-use plan is to be accompanied by an explanatory memorandum. This memorandum describes the goals, purposes, and effects of the proposed urban development, and records the procedure for and outcome of weighing the interests involved. The explanatory memorandum also includes the environmental report (Section 2a of the Building Code), which describes and assesses substantial environmental impacts.[326]

Since the plan has to be drawn up for the entire territory of the municipality, the scale of maps and plans ranges between 1:5,000 and 1:25,000, depending on the size of the community.

The local council adopts the preparatory land-use plan as a special type of government measure.[327] It is accordingly not subject to judicial review pursuant to Section 47 of the Code of Administrative Court Procedure.[328] It alone can justify no claims, in particular no claim to the granting of building permission. Nevertheless, it has considerable binding effect: binding land-use plans are to be developed on the basis of the preparatory land-use plan (Section 8 (2) of the Building Code). Furthermore, the preparatory land-use plan plays an important role in obtaining authorisation for projects in undesignated outlying areas (outer zone) under Section 35 of the Building Code. A privileged (subsection 1) or other (subsection 2) project is contrary or detrimental to the public interest if it contravenes the representations in the preparatory land-use plan (Section 35 (3) no. 1 of the Building Code). The preparatory land-use plan is binding on public planning bodies involved under Sections 4 and 13 if they do not file an objection to the plan. They are thus required to adapt their plans to the preparatory land-use plan (Section 7 of the Building Code).

[323] Cf Stüer, Der Bebauungsplan, Rn. 72ff
[324] On basics, procedures and effects see Koppitz/Schwarting/Finkeldei, Der Flächennutzung in der kommunalen Praxis
[325] Cf Stüer, Der Bebauungsplan, Rn. 72 ff
[326] Cf Schmidt-Eichstaedt, Bauleitplanung, in: ARL (ed.), Handwörterbuch der Raumordnung, 78
[327] Cf Löhr, in: Battis/Krautzberger/Löhr, BauGB, § 5 Rn. 45
[328] Cf Schmidt-Eichstaedt, Städtebaurecht, 204

3.2.3. Binding Land-Use Plan

The binding land-use plan (*Bebauungsplan*)[329] is the second stage in the two-stage system of local urban development planning. In contrast to the preparatory land-use plan the binding land-use plan contains legally binding specifications steering and controlling urban development structures, the use of land for building and other purposes (Section 8 (1) of the Building Code). It is adopted in the form of a bye-law or municipal statute. The binding land-use plan is the chief instrument for implementing local government planning, and constitutes the basis for other measures needed to implement the Building Code. These include:

- land reallocation (Sections 45 ff of the Building Code),
- land improvement (provision of local public infrastructure) (Sections 123ff),
- compensation (Sections 39ff),
- expropriation (Sections 85ff),
- urban development enforcement orders (Sections 175-179),
- admissibility of projects within areas covered by binding land-use plans (Sections 30, 31). (see chapter II.1.4.3).

The binding land-use plan gives specific form to the preparatory plan through the clear, plot-by-plot definition of land use.[330] The Building Code allows a wide range of content in binding land-use plans. Section 9 provides an exhaustive list. Possible specifications and other contents of the binding land-use plan are described in chapter II.1.5.

As a rule, the binding land-use plan in not limited in time.[331] However, under certain circumstances, time limits or conditions may be imposed (Section 9 (2) of the Building Code). The scale employed for binding land-use plans usually ranges from 1:500 to 1:2,000.

The binding land-use plan is to be accompanied by an explanatory memorandum (Section 9 (8) of the Building Code). It sets out the aims, purposes and most significant effects of the plan.[332] It also includes the environmental report (Section 2a of the Building Code), which describes and assesses substantial environmental impacts.

There are *various types* of binding land-use plan. The admissibility of a project can be decided on the basis of a *qualified binding land-use plan*, but it must contain the minimum specifications listed in Section 30 (1) on the category of use and degree of building coverage, lot coverage, and traffic areas. A project is accordingly permissible if it does not contravene these specifications and if the provision of local public infrastructure is ensured.

A plan that does not contain these minimum specifications is termed a *simple binding land-use plan*. In areas covered by a simple binding land-use plan, the admissibility of projects is governed by Section 24 of the Building Code (built-up areas/inner zone) and Section 35 (undesignated outlying areas/outer zone) (Section 30 (3)).

In the case of *project-based binding land-use plans* (Section 30 (2) of the Building Code), the admissibility of projects can also be definitively decided. A project is permissible if it does not contravene the binding land-use plan and if the provision of local public infrastructure is ensured.

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[329] For detailed treatment see: Kuschnerus, Der sachgerechte Bebauungsplan, Stüer, Der Bebauungsplan
[330] Cf Löhr, in: Battis/Krautzberger/Löhr, BauGB, § 8 Rn. 2
[331] Cf Löhr, in: Battis/Krautzberger/Löhr, BauGB, § 9 Rn. 7, 241
[332] Cf Schrödter, in: BauGB, § 9 Rn. 183ff

The project-based binding land-use plan is part of the project and infrastructure plan under Section 12 of the Building Code. This instrument is used principally to satisfy the planning-law conditions for obtaining authorisation for a specific project. In this instance, the investor takes the initiative to establish a right to build. On the basis of a plan for realising the project and improving the land (project and infrastructure plan) prepared in consultation with the local authority, the developer must be willing and able to implement the project within a fixed period and to bear either wholly or in part the costs of planning and land improvement prior to adoption of the pertinent bye-law (implementation contract) (Section 12 (1) of the Building Code).

3.2.4. Land-Use Planning Procedure[333]

The procedure for preparing land-use plans is laid down in Sections 2ff of the Building Code. Procedure for the preparatory and the binding land-use plan is identical up to the adoption stage. It begins formally with a plan prepartion decision (*Aufstellungsbeschluss)*.[334] Depending on the applicable state and local law, this decision is general made by the local council, by a committee, or by the municipal executive board.[335] The decision is to be published in the manner customary in the municipality under Section 2 (1) sentence 2 of the Building Code.

In practice, this decision is preceded by a *run-up phase*, during which the need for the plan is examined. In this context, urban development plans and district development plans are often also elaborated or evaluated. In accordance with Secion 1 (6) no. 11 of the Building Code, these informal plans are to be taken into account in deliberations on the land-use plan if they have been adopted by the local authority.[336] At an early stage in proceedings, generally before the preparation decision has been adopted, the local authority has to submit a state spatial planning query to the competent state spatial planning authority as to any aims of comprehensive spatial planning and state spatial planning that cannot be dealt with by the process of weighing interests.[337] This step in the procedure is pursuant not to the Building Code but to the relevant state spatial planning legislation.

In urban land-use planning procedures, the *involvement of the public and of public authorities and other public agencies* is provided for in two stages. The Building Code distinguishes between early and formal participation.

Early public participation under Section 3 (1) of the Building Code serves to inform the general public about the general aims and purposes of planning and to hear their views. Members of the public can put forward their proposals and arguments at an early stage in proceedings, before planning has taken on too definite contours.[338] In addition, the municipality is required under Section 4 (1) of the Building Code to inform public authorities and other public agencies at the earliest possible date of the general aims and purposes of planning and to invite them to state their views, not least of all about the necessary extent and granularity of environmental impact assessment under Section 2 (4). For this purpose, public authorities and public agencies include all public authorities, offices, and public associations that could be affected by the planning (e.g. nature conservation offices, chambers of industry and commerce, utilities, churches). If the envisaged plans affected the development intentions of other local authorities, they must also be informed and consulted.[339] Notification pursuant to Section 3 (1) and Section 4 (1) can be carried out simultaneously (Section 4a (2) of the Building Code).

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[333] For general treatment see: Rothe/Müller, Die Aufstellung von Bauleitplänen
[334] Cf Schrödter, in: BauGB, § 2 Rn. 1ff
[335] Cf Battis, in: Battis/Krautzberger/Löhr, BauGB, § 2 Rn. 4
[336] Cf Schmidt-Eichstaedt, Städtebaurecht, 124ff
[337] Cf Schmidt-Eichstaedt, Städtebaurecht, 127
[338] Cf Battis, in: Battis/Krautzberger/Löhr, § 3 Rn. 7ff
[339] Cf Schmidt-Eichstaedt, Städtebaurecht, 130ff

Once all comments have been collected, private and public interests (Section 1 of the Building Code) are to be duly weighed. The competent local body adopts a decision on public display (*Auslegungsbeschluss*). The draft plan is to be put on public display for a period of one month with the explantory memorandum and the already available comments on environmental aspects considered important by the local authority (Section 3 (2) of the Building Code). The public have the opportunity to offer recommendations and make objections regarding the plan, which are then to be taken into account in the ensuing weighing of interests. The place and duration of public display are to be published at least one week in advance in the manner customary in the municipality (Section 3 (2) of Building Code). The announcement must also state what types of environmental information are available and that overdue comments cannot be taken into account, and that an application for judicial review is inadmissible if the applicant lodges objections that were not raised, or not raised in due time, in the context of public display, but which could have been put forward on this occasion (Section 3 (2) sentence 2 of the Building Code).

The public authorities and other public agencies affected are also to be given opportunity to state their views (Section 4 (2)). There is a one-month deadline, which can be reasonably extended for good cause. Participation under Sections 3 (2) and 4 (2) of the Building Code can take place at the same time. In the case of land-use plans capable of a substantial impact on neighbouring countries, municipalities and public authorities in those countries are to be notified in accordance with the principles of reciprocity and equivalence (Section 4a (5)). If cross-border participation is necessary, attention must be drawn to the fact in the announcement (Section 4a (5) sentence 3). Participation by the public of the neighbouring countries takes place pursuant to Section 3 of the Building Code.

If, in the ensuing weighing of interests, it transpires that the draft plan has to be revised and adapted, the process of public display is to be repeated.[340]

The binding land-use plan is finally *adopted* by the municipality in the form of a bye-law or municipal statute (Section 10 (1) of the Federal Building Code). Under Section 10 (2), certain binding land-use plans (Section 8 (2), (3) sentence 2, and (4) of the Building Code) require authorisation by the superior administrative authority. The states can introduce a duty of notification by virtue of Section 246 (1a) with respect to the superior administrative authority, for example for binding land-use plans not requiring authorisation. Some states (like Brandenburg and Mecklenburg-Western Pomerania) have done so for a limited period which has now expired everywhere).

The granting of permission or, where this is not required, the adoption of the binding land-use plan is to be published in the customary manner. The binding land-use plan and supporting documentation are to be made available for inspection by the general public; explanations and information on the content are to be supplied on request. Upon *publication*, the binding land-use plan comes into force (Section 10 (3) of the Building Code).

The preparatory land-use plan must be submitted to the superior administrative authority for approval (Section 6 (1). This authorisation must be published in the customary manner. Upon publication, the prepartory land-use plan comes into force (Section 6 (5) of the Building Code).

Both the preparatory and the binding land-use plan are to be accompanied by an explanatory memorandum. The content is laid down in Section 6 (5) sentence 3 and Section 10 (4) of the Building Code.

[340] For details see § 4a (3) BauGB

The length of proceedings for preparing land-use plans is difficult to generalise, since it depends on many factors like the size of the municipal territory, the number of conflicts, and the type of plan.

Divergence from the procedures described above is possible; a simplified procedure can be employed pursuant to Section 13 of the Building Code if the alteration or supplementation of a land-use plan does not affect planning essentials or where, in an area under Section 34, the admissibility criteria deriving from the specific nature of the immediate surroundings are not essentially altered through the land-use plan.

Instead of the procedure described, an accelerated procedure under Section 13a of the Building Code can be used if a binding land-use plan for the recycling of land, for densification, or for other inner development measures is prepared and the specified or actual surface area under Section 19 (2) of the Land Utilisation Ordinance is less than 20,000 m² or between 20,000 m² and 70,000 m², and no significant effects on the environment are revealed by preliminary examination of the specific case.

This simplified and accelerated procedure is to be used only if projects that are being prepared or justified are not subject to environmental impact assessment and there is no reason to expect any adverse impact on protected areas for flora and fauna or bird sanctuaries. If all the conditions are met, Section 13 and 13a allow certain steps in procedure and the environmental assessment to be omitted.[341]

3.3. Informal Planning at the Local Level

3.3.1. Introduction

Informal planning is not definitively regulated by law. Only its integration into formal urban land-use planning is laid down by the Building Code. According to Section 1 (6) no. 1, development concepts and other urban development plans adopted by the local authority are to be taken into account in preparing land-use plans.

Informal plans are adopted by the local council in the form of master plans. They can be binding only within the administration.

Nor is there any formal procedure for their preparation. Most informal planning is rather to be seen as a continuous process in which procedural stages are not strictly chronological. The facilitation of subsequent modification, adaptation, and feedback is stressed. This informal type of planning is strongly oriented in both substance and procedure on local conditions.[342]

Although procedure is not formally regulated, the voluntary involvement of the public and public authorities has become the normal practice.

Informal plans are useful in preparing and giving concrete form to land-use plans.

3.3.2. Sectoral Development Planning

Urban development planning (*Stadtentwicklungsplanung*) is part of informal planning. It deals with social, cultural, and economic demands on the settlement area. Urban development plans are usually elaborated for the entire community, and are often composed of thematic subplans addressing, for instance:

[341] For details see §§ 13 and 13a BauGB
[342] Cf Danielzyk, Informelle Planung, in: ARL (ed.), Handwörterbuch der Raumordnung, 466

- work,
- housing,
- social infrastructure,
- utilities,
- transport.

This produces outline objectives for city-wide development and the required investment.

Urban development planning helps prepare political and administrative decisions, and constitutes a tool for coordinating subsequent urban land-use planning and municipal sectoral planning. In permits many a conflict to be recognised and eliminated at an early stage before formal planning gets under way. The advantage of such informal planning is great flexibility and scope.[343] One of the main tasks of urban development planning is to give more concrete form to preparatory land-use planning by setting spatial and temporal priorities in space utilization. It can also elaborate functional space models, types of measure and areas for specific measures, and determine their implementation in terms of importance and sequence.

This informal planning is undertaken for the entire territory of the municipality. Single sectoral sub-areas are usually treated separately and, depending on the size of the community, depicted with a scale ranging between 1:5,000 and 1:25,000. Urban development planning is not limited to master plans. Urban development concepts are often filled in by means of detailed texts and programmes.

Sectoral development planning is medium to long term.

3.3.3. Sub-Area Development Planning

In recent decades, the notion of urban development planning has been evolving. Instead of elaborating abstract programmes aiming to influence economic and societal forces for development as a whole, planners now take a far more relative view. Projects addressing single tasks to obtain partial improvements are becoming more and more important. This new approach to planning concentrates on small steps and reasonably short periods (perspective incrementalism). This has also meant priority setting rather than all-embracing realisation.

As a result of this new approach, many local authority preparatory land-use plans and sectoral, specialised and development plans have dealt with sub-areas.

Master plans for sub-area development planning present differentiated proposals on the distribution of land use, urban design, and the type and priority of planning measures for limited areas.

Being a non-formalised planning tool, sub-area development planning is not subject to any formal procedure. The spatial characteristics involved depend strongly on the planning purpose and local authority planning practice, and are therefore difficult to compare. A medium scale is used for these informal plans for sub-areas of the municipality (1:10,000 to 1:5,000).

Sub-area development planning is medium to long term.

3.3.4. Framework Development Planning

The framework development plan, like the urban development plan, is an informal tool. In contrast to urban development planning, framework planning concentrates on spatially and sub-

[343] Cf Danielzyk, Informelle Planung, in: ARL (ed.), Handwörterbuch der Raumordnung, 466

stantively limited urban development tasks. The focus is on elaborating the specifications of the preparatory land-use plan at the neighbourhood level to provide a basis for the binding land-use plan. Being an informal tool, framework planning is much more flexible[344] than formal urban land-use planning. This allows it to concentrate on select aspects and problems. The framework plan is used primarily for urban extensions, but also in developing existing urban areas suffering from deficiencies and shortcomings. The framework plan is a differentiated plan of action, which can be seen both as a pointer for the administration and a source of information for the public and investors. Framework plans are often prepared in connection with urban design competitions.

At the spatial level, the framework plan comes between the preparatory land-use plan and the binding land-use plan (scale 1:5.000 to 1:1.000). It deals with urban sub-areas or neighbourhoods.[345]

The framework plan generally presents both the categories of land use laid down by the preparatory land-use plan and the physical structures determined by binding land-use plans. Usually, structures are identified in far more concrete form than in binding land-use plans. It can also address a range of other aspects:

- spatio-structural,
- functional,
- urban design,
- socio-economic,
- ecological.

Objectives can thus be detailed in many different ways, although they remain informal in nature. Framework planning is medium term.

3.4. Building Permission Procedure[346]

State building regulations are essentially similar in content and structure from state to state, although some arrangements differ considerably. The Standard Building Regulations 2002 (*Musterbauordnung – MBO*) provide an overview of existing rules.[347] Erecting, altering and changing the use of physical structures require a permit unless otherwise provided by Sections 60 to 62, 76, and 77 of the Standard Building Regulations (Section 59). Whether the following provisions apply must be ascertained for each project:

- priority of other permit proceedings (Section 60 of the Standard Building Regulations),
- building projects not subject to permit procedures, demolition of physical structures (Section 61),
- exemption from permission (Section 62),
- authorisation of moveable structures (Section 76),
- building authority authorisation (Section 77).

If none of these provisions is relevant, building permission proceedings are required. Depending on preconditions, the Standard Building Regulations differentiates between simple

[344] Cf Danielzyk, Informelle Planung, in: ARL (ed.), Handwörterbuch der Raumordnung, 466
[345] Cf Albers, in: ARL (ed.), Handwörterbuch der Raumordnung, 1087f
[346] Cf Hoppe/Bönke/Grotefels, Öffentliches Baurecht, § 15 Rn. 10ff
[347] Musterbauordnung 2002 (MBO 2002); available, for instance, at www.is-argebau.de/lbo/VTMB100.pdf

building permission procedure (Section 63) and building permission procedure proper (Section 64).[348]

Building permission is granted by the lower building authorities in the given state. Lower building authorities are the lower-tier administrative authorities, counties, country-free cities, or municipalities forming part of a county, provided that this competence has been vested in them. The planning application and the material needed to assess the building project and for processing the application (building documents) (Section 68 of the Standard Building Regulations) are to be submitted to the appropriate authority. The building documents are to be prepared and signed by authorised parties (Section 54). What documents and drawings (site plan, ground plan, elevations, sections) with what scale have to be submitted depends on the relevant state ordinance pertaining to building documents (*Bauvorlagenverordnung*). The building authority obtains the consent of the municipality[349] and consults all the bodies and agencies required to be heard and without whose stated opinion it cannot be decided whether approval can be granted (Section 69 of the Standard Building Regulations).

Building permission is to be granted if the building project does not conflict with any provisions of public law which are to be considered in the authorisation procedure (Section 72 (1) of the Standard Building Regulations). Building permission is a so-called tied decision, in which the authority has no margin of discretion. This safeguards the constitutional right to build under Article 14 of the Basic Law.[350] The granting of *building permission* is an administrative act.

Building permission expires if the building project is not commenced within three years (sometimes four or six years) after permission has been granted, or if execution of the works is interrupted for longer than one year. On application, it can be extended for a year (Section 73 of the Standard Building Regulations). In order to clarify particular issues relating to the project (e.g. building setbacks) the developer can submit an outline planning application before the application for building permission proper. The lower building authority then issues an outline or preliminary permit (*Bauvorbescheid*) by which it is bound in the subsequent building permission procedure unless the material and legal situation underlying the preliminary permit changes. Preliminary building permission is valid for the same period as building permission proper.

[348] Since building control law is governed by state law, whether and what procedures have to be followed has to be ascertained for every project with reference to the relevant state building regulations.
[349] The granting of consent is regulated by Section 36 of the Building Code. Where the municipality denies its consent contrary to the law, this consent is to be replaced (Section 71 of the Standard Building Regulations).
[350] Cf Krautzberger, in: Battis/Krautzberger/Löhr, BauGB, § 1 Rn. 7

4. Sectoral Planning

4.1. Introduction

Apart from cross-sectional, comprehensive planning (urban land-use planning, regional planning, state spatial planning), there is sectoral planning for specialised, long-life, and long-term projects. *Sectoral planning* is concerned with linear planning and certain infrastructural facilities. Nature conservation and landscape planning occupy an ambiguous position. They are both cross-sectional comprehensive plans (landscape programme, landscape outline plans, green structures plans) and sectoral plans (e.g. protection area ordinances).

Sectoral planning is divided into *supra-local and local* sectoral planning. On the one hand, it deals with linear, cross-community infrastructures, generally at the federal and state levels (e.g. highways, railways, tramways, magnetic levitation railways, airports, mining, waterways, protection areas, tipping sites, and waste incineration plants), and, on the other, with the local level (e.g. roads), where local authorities are responsible for sectoral planning.[351]

A further distinction is made between *privileged* and *non-privileged sectoral planning*. Privileged sectoral planning addresses supra-local projects subject to planning approval or permission. It deals with highways, railways, and magnetic levitation railways, with air transport, telecommunications, energy supply, passenger transport, and experimental facilities for rail-bound transport, waterways and water management, as well as mining projects. Privileged sectoral planning also includes projects for building and operating publicly accessible waste disposal facilities with the participation of the municipality subject to procedures under the Federal Immission Control Act (*Bundes-Immissionsschutzgesetz*) (Section 38 of the Building Code).

Different planning bodies are responsible for the preparation of formal and strictly binding spatial planning and sectoral planning.[352] Because they address the same areas, conflicts can arise. A spatially significant measure or plan governed by sectoral planning law can conflict with the goals, principles, and other requirements laid down in spatial structure plans, as well as the representations of preparatory land-use plans and the specifications of a binding land-use plan.[353] Building and spatial planning law offer a range of solutions. The aims of spatial planning set out in spatial structure plans are strictly binding on sectoral planning (Section 4 of the Federal Spatial Planning Act) provided that the specification in question falls within the remit of spatial planning under Section 1 (1) of the Federal Spatial Planning Act and is in the nature of an aim or goal. Local urban land-use planning (preparatory and binding land-use plans) and sectoral planning, in contrast, are on the same hierarchical level. Section 7 of the Building Code provides a solution for the preparatory land-use plan. Public planning agencies involved in preparing the preparatory land-use plan under Sections 4, 13, and 13a of the Building Code are required to adapt their planning proposals to the preparatory land-use plan provided they have not objected to this plan. For the binding land-use plan, Section 38 of the Building Code offers an indirect solution to conflicts in that the provisions relating to the admissibility of projects under Sections 29 to 37 do not apply with respect to privileged sectoral planning.[354] [355] One solution for planning conflicts is that in some fields sectoral planning can be carried out by means of binding land-use plans instead of planning approval procedure (e.g. Section 17 (3) of the Federal Highways Act).

[351] Cf Runkel, Fachplanungen, raumwirksame, in: ARL (ed.), Handbuch der Raumplanung, 283f
[352] Cf Runkel, Fachplanungen, raumwirksame, in: ARL (ed.), Handbuch der Raumplanung, 282
[353] Cf Runkel, Fachplanungen, raumwirksame, in: ARL (ed.), Handbuch der Raumplanung, 282
[354] Cf Runkel, in: Fachplanungen, raumwirksame, in: ARL (ed.), Handbuch der Raumplanung, 282
[355] For more detailed treatment see Stüer, Handbuch des Bau- und Planungsrechts, Rn. 2983ff

For certain sectoral plans, a graduated procedure is provided from broad concept planning to specific planning of the measure in question. In these cases sectoral plans for a specific project are then preceded by requirements plans. This is particularly the case with the building of federal highways. The Bundestag adopts a Federal Transport Infrastructure Plan for highway construction pursuant to the Federal Street Building Act.[356] This requirements plan justifies investment, which is then no longer subject to judicial review.[357] The states, too, can determine their sectoral planning needs in the framework of their overall spatial planning, and, where necessary, concretise them by means of the spatial planning procedure set forth in Section 15 of the Federal Spatial Planning Act or the derogation procedure under Section 11. The same applies with respect to local authorities, which can prepare their local sectoral planning requirements by means of land-use planning.

Comprehensive planning and sectoral planning, despite their differences in content, have much in common, especially procedural and substantive demands on planning governed by law.[358]

Legislative competence in spatial planning and sectoral planning is dealt with in chapter II.2.1. The Federation has exercised its legislative powers in all fields of sectoral planning. The implementation of sectoral planning in specific projects is entrusted directly to federal higher, intermediate, and lower authorities only in the fields of conventional and magnetic levitation railways (Federal Railways Authority – *Eisenbahnbundesamt*), waterways and water management (Federal Office for Shipping and Hydrography – *Bundesamt für Schifffahrt und Hydrographie*), and defence (Federal Defence Administration – *Bundeswehrverwaltung*). See also chapter II.2.1. In all other fields, sectoral planning is carried out by the states.

In turn, the states transfer some of their sectoral planning powers to lower tiers of state administration and to local authorities. Requirements assessment in the context of comprehensive planning, sectoral requirements planning, and participation by higher federal or state administrative authorities in specific sectoral planning proceedings provides feedback between the tiers involved.

4.2. Types of Procedure in Sectoral Planning Law

Sectoral planning law distinguishes between three types of procedure. They are:

- planning approval (*Planfeststellung*),
- planning permission (*Plangenehmigung*),
- waiver of formal procedure (*Verzicht auf förmliches Verfahren*).

They are described in the coming section.

4.2.1. Planning Approval Procedure

The procedural and substantive demands on planning approval procedures are the same on all levels of planning, regardless of whether a street or an airport is involved at the federal, state, or local level. There are differences only in the competence for carrying out the procedure, for planning permission, and legal procedure.

The obligation to carry out planning proceedings is imposed on all levels of planning by the relevant sectoral law. If planning approval procedure is required by law, they are governed by the

[356] Gesetz über den Ausbau der Bundesfernstraßen, 30 June 1971, BGBl. I, 873, amended as promulgated on 20 January 2005, BGBl. I 201, as last amended by Art. 12 of the Act of 09 December 2006, BGBl. I, 2833
[357] On requirement planning see Stüer/Probstfeld, Die Planfeststellung, 84
[358] On the commonalities between building and sectoral planning law see: Stüer/Probst, Die Planfeststellung, 459

Administrative Procedures Act (*Verwaltungsverfahrensgeset – VwVfG*). If the relevant sectoral law provides for special arrangements, they are to be applied.

The *purpose of planning approval proceedings* is to determine whether a particular development project with spatial impacts is to be authorised. This procedure involves weighing and balancing both the interests of the developer and any public or private interests which might be affected by the development project. It concludes with a legally binding decision. Planning approval includes all other decisions required from public authorities (e.g. permits, concessions, consent), and regulates all public-law relationships between the project developer and those affected by the plan. Planning approval is therefore a comprehensive process of concentration and development. The outcome of planning approval procedure is the planning approval decision.[359]

Planning Approval Procedure under Sections 72ff of the Administrative Procedures Act

Application and Planning Documents Section 73 (1) of the Administrative Procedures Act: The project developer submits the plan to the relevant authority (e.g. the Federal Railways Authority) for the hearing procedure. The plan consists of drawings (e.g. project plans, environmental impact assessment, landscape management support plan) and explanations presenting the project, its purpose, and the sites and structures affected by it.

Public Authority Comments Section 73 (2) of the Administrative Procedures Act: The authority responsible for the hearing calls on public authorities whose remit is affected by the project to submit its comments within a month of receipt of the complete plan. Public authorities are to supply their comments by a deadline set by the responsible authority, which may not exceed more than three months. Comments received thereafter are no longer taken into account unless the issues addressed are already known or should have been known to the planning approval authority, or if they are important for the lawfulness of the decision.

Public Display of Plans Section 73 (2), (3), and (4) of the Administrative Procedures Act: The responsible authority sends the planning documents to the local authorities affected by the project. Local authorities are required to put the plan on public display within three weeks of receipt for a period of one month, and to announce this public display beforehand by the usual local means (content of announcement – Section 73 (5)). For a period of two weeks after public display, affected parties may file objections.

Public display can be renounced if the circle of those affected is known and they are given an opportunity within a reasonable period to inspect the plan. In this case the responsible authority sets the deadline. All objections not founded on special titles under private law are ruled out upon expiration of the period for entering objections. This is to be pointed out in the announcement of public display or of the objection period.

Deliberation Section 73 (6) of the Administrative Procedures Act: After expiration of the deadline for participation by public agencies and the general public, the procedure for discussion of the objections entered takes place after due notice has been given in the customary manner (requirements are set out in Section 73 (6) of the Administrative Procedures Act). The aim of this discussion is to reach the greatest possible consensus with all objectors. If the plan is fundamentally modified, public display must be repeated. If changes are slight, the parties affected are to be invited to comment.

Comments by the Responsible Authority Section 73 (9) of the Administrative Procedures Act: The authority responsible for the hearing procedure gives its opinion and, where possible

[359] ARL (ed.), Handbücher der Planungsbegriffe

within a month after completion of the discussion procedure, submits this opinion together with the plan, the comments of public authorities, and objections that have not been settled to the planning approval authority.

Planning Approval Decision Section 74 (1), (2), and (3) of the Administrative Procedures Act: The planning approval authority (e.g. district administration) approves the plan (planning approval decision). The planning approval decision also deals with objections on which agreement was not reached during the discussion procedure.

Effect of Planning Approval Section 75 of the Administrative Procedures Act: The planning approval decision has far-reaching legal effects.

- Approval: the planning approval decision gives the project developer approval for carrying out the project. The plan becomes ineffective if implementation of the plan does not begin within five years of permission becoming final.
- Concentration: a concentration effect is attained in that the decision includes the other public authority decisions required pursuant to other provisions. The formal concentration effect means that any authorisation required under other provisions is not needed (e.g. permits under state building regulations, the Federal Water Act, or the Federal Immission Control Act). The material concentration effect limits material examination requirements with regard to other legal rules.
- Regulatory effect: the planning approval decision definitively regulates all relations under public-law between the project developer and the parties affected by the plan.
- Exclusion effect: once the planning approval decision has become final, any action to cease and desist from using the plan is excluded.
- Compensatory effect: the planning approval authority is required under certain circumstances to oblige the project developer to take protective measures or to pay appropriate monetary compensation to parties affected by the project.[360]

Invalidity of Planning Approval (Administrative Act) Section 44 of the Administrative Procedures Act: Under Section 44 of the Administrative Procedures Act, the planning approval decision as an administrative act is invalid if it suffers from particularly serious defects and this becomes evident upon due and reasonable consideration of all the relevant circumstances. The invalidity of a planning approval decision can be established by an action for declaratory judgment pursuant to Section 43 (1) of the Code of Administrative Court Procedure.

In a few cases, sectoral planning can be carried out by means of a binding land-use plan in lieu of planning approval (e.g. Section 17 (3) Federal Highways Act). However, the binding land-use plan deals only with the admissibility of the sectoral plan under planning law. Since the binding land-use plan has not concentration effect, all further authorisations, such as building permission, procedures under water management law, or permits under pollution control law have to be applied for separately.

4.2.2. Planning Permission

Under certain circumstances planning permission (*Plangenehmigung*)[361] can replace planning approval (*Planfeststellung*). This is the case where the rights of third parties are not adversely affected or if the affected parties have given their written consent to the use of their property or

[360] On the legal effects of the planning approval decision see: Hoppe/Schlarmann, Die planerische Vorhabensgenehmigung, 87ff

[361] It was introduced in 1993 by the Planning Simplification Act (Planungsvereinfachungsgesetz – PlVereinfG).

the exercise of another right, and agreement has been reached with public agencies whose areas of responsibility are affected. Planning permission requires no participation by the general public with procedures for the public display of plans, the entering and discussion of objections. Planning permission is not admissible in accordance with sectoral legislation if it encroaches upon or substantially affects the rights of others, expropriation is necessary, or public participation is required, for instance because an environmental impact assessment[362] is required.[363]

Planning Permission Section 74 (6) of the Administrative Procedures Act

Planning permission can be granted in lieu of a planning approval decision where:

1. third party rights are not adversely affected

2. where the affected parties have given their written consent to the use of their property or the exercise of another right, and agreement has been reached with public agencies whose areas of responsibility are affected.

Not admissible for projects requiring an environmental impact assessment.

No formal procedure for public participation

Legal effect and defence as for the planning approval decision, but no blight due to proposed compulsory purchase.

4.2.3. Waiver of Formal Procedure

Under Section 74 (7) of the Administrative Procedures Act, planning approval and planning permission can be renounced in cases of minor importance. This can apply where:

1. other public interests are not affected or the required public authority decisions have been issued and they do stand in the way of the plan,

2. the rights of third parties are not affected or appropriate agreement has been reached with the parties affected by the plan.[364]

4.3. General Description of Sectoral Planning

4.3.1. Transport and Communications

4.3.1.1. Federal Railways

The Federation provides railway services for the passenger and goods transport using railway infrastructure facilities. These services include the building, altering, and extension, as well as maintenance of railway lines, including command and control systems and safety systems. The legal basis on which these services are provided is Article 73 no. 6 of the Basic Law, under which the Federation has exclusive legislative powers for the operation of railways wholly or predominantly owned by the Federation (federal railways), the construction, maintenance, and operation of lines belonging to federal railways as well as the imposition of charges for the use of such lines; According to Article 87e of the Basic Law, rail transport with respect to federal railways is to be administered by federal authorities. Responsibilities for rail transport administration may be delegated by a federal law to the states acting in their own right. The Federation

[362] If a project requires an environmental impact assessment is determined by the Act on Environmental Impact Assessment (Gesetz über die Umweltverträglichkeitsprüfung) of 12 February 1990, BGBl. I, 205, as amended on 25 June 2005, BGBl. I, 2407, last amended by Art 2 of the Act of 21 December 2006, BGBl. I, 3316.
[363] On planning permission see Stüer/Probstfeld, Die Planfeststellung, 9
[364] For details see Stüer/Probstfeld, Die Planfeststellung, 14

discharges rail transport administration responsibilities assigned to it by a federal law, above and beyond those respecting federal railways.

The basis for developing the railway network is a Federal Railway Investment Plan (*Bundesschienenwegebedarfsplan*)[365] and a transmodal concept of 9th April 1991, which comprised 17 Transport Projects for German Unification, including 9 railway projects.[366] Planning and licensing federal railway infrastructural facilities is the responsibility of the Federal Railways Authority. In the General Railway Act (*Allgemeines Eisenbahngesetz – AEG*)[367] the Federation has definitively regulated planning approval for all railways including state railways (Sections 18ff). According to Section 18 of the General Railway Act, a railway including power lines may be built or altered only if planning approval has been granted beforehand. In granting planning approval, all public and private interests, including environmental compatibility are to be weighed. In accordance with this act, planning procedure is governed by Sections 72 to 78 of the Administrative Procedures Act. The General Railway Act deals with the hearing procedure (Section 18a), the planning approval decision and planning permission (Section 18b), modifications to the plan before completion of the project (Section 18d), legal remedies (Section 18e), expropriation (section 22) and compensation procedure (Section 22a).[368] In order to safeguard planning, Section 19 (1) and (2) of the General Railway Act provides for a development freeze, and Section 19 (3) for a right of pre-emption. To ensure that construction work can begin as quickly as possible, Section 21 of the General Railway Act provides for early putting into possession.

4.3.1.2. State Railways

Responsibility for rail transport administration may be delegated by a federal law to the states to act in their own right. Where the states or private persons operate railways of their own, the same requirements apply in principle for planning, licensing, construction, and operation as for railways belonging to the Federation. There is no sectoral planning at the local government level for railways.

4.3.1.3. Magnetic Levitation Railways at the Federal Level[369]

For the planned magnetic levitation railway between Berlin and Hamburg, the Act Regulating Planning Procedure for Magnetic Levitation Railways (*Gesetz zur Regelung des Planverfahrens für Magnetschwebebahnen*) was passed. It deals with the planning, licensing, and operation of magnetic levitation railways. The Berlin-Hamburg project has meanwhile been abandoned. Also the project to connect the Munich Central Station and the Munich Airport with a Magnetic Levitation Railways has been abandoned in 2008.

Magnetic levitation railways, like conventional railways, are linear, long-life infrastructural facilities for interconnecting high-order centres with the function of supra-local development. The planning, licensing, and operation of magnetic levitation railways are subject to planning approval. In simple cases, planning permission suffices. The supervisory, licensing, and planning approval authority is the Federal Railways Authority. Regional and local authorities have

[365] Annex to Gesetz über den Ausbau der Schienenwege des Bundes of 25 November 1993, last amended by Art 309 V of 31 October 2006, BGBl. I, 2407

[366] The Act on the Acceleration of Railway Infrastructure Planing (*Verkehrswegeplanungsbeschleunigungsgesetz*) of 16 December 1991, BGBl. I, 2174, provided the legal basis for implementing this concept

[367] Allgemeines Eisenbahngesetz of 27 December 1993, BGBl. I 2378, 2396, BGBl. I (1994) 2439, last amended by Art 8 of the act of 26 February 2008, BGBl. I, 215

[368] Cf Stüer/Probstfeld, Die Planfeststellung, 245ff See also Stüer, Handbuch des Bau- und Fachplanungsrechts, mns. 3094 to 3149; the latest amendments to the General Railway Act are not taken into consideration

[369] Allgemeines Magnetschwebebahngesetz of 23. November 1994, BGBl. I, 3486, last amended by Art 6 of the act of 9 December 2006, BGBl. (2007) I, 691

no planning powers relative to magnetic levitation railways.[370] Other requirements regarding magnetic levitation railways are set out in the General Magnetic Levitation Railways Act.[371]

4.3.1.4. Federal Trunk Roads

The Federation plans supra-local, linear road infrastructure projects for federal highways in accordance with the Federal Highways Act.[372] National trunk roads are federal motorways (*Bundesautobahn*) and federal highways (*Bundesstraße*) as required by the Trunk Road Extension Act,[373] which are approved in a multi-stage procedure – investment plan, spatial planning, routing procedure, plan approval procedure, or, in simple case, planning permission. The Trunk Road Extension Act lays down the traffic requirements for the construction of new federal trunk roads. The Act of the Acceleration of Transport Infrastructure Planning (*Verkehrswegeplanungsbeschleunigungsgesetz*) provides the basis for speeding up seven trunk road projects. Trunk road planning, being spatially significant, is to be harmonized as well as coordinated with spatial planning requirements under a special procedure. In the ensuing routing procedure under Section 16 of the Federal Highways Act,[374] a corridor is agreed by the Federation and the states within which future, specific road planning (planning approval) is to be situated.

The construction, alteration, or extension, and operation of federal trunk roads are subject to planning approval, or, in simple cases, to planning permission pursuant to the Federal Highways Act. Under Article 90 of the Basic Law, federal motorways and federal highways are built and administered by the states (state highway department) on behalf of the Federation. Planning approval procedure and planning permission is regulated by Section 17-17f of the Federal Highways Act.[375]

4.3.1.5. State and County Roads

With respect to planning, construction, alteration, and extension, state and country roads built in accordance with state law are subject to the same requirements and the same planning approval or permission instruments as federal trunk roads. Planning approval and planning permission can be renounced in cases of minor importance.

4.3.1.6. Local Roads

This is also the case for local roads built in accordance with state law outside the purview of local urban land-use planning. In cases of minor importance planning approval and planning permission can be renounced. The binding land-use plan can replace planning approval.

4.3.1.7. Federal Waterways Construction

The law relating to water covers water management law and waterways and water transport law. The law relating to waterways construction regulates the nation-wide, long-term construction, extension, maintenance, and utilisation of federal waterways. The statutory basis is provided by the Federal Waterways Act (*Bundeswasserstraßengesetz*).[376] The extension, construction, or

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[370] Cf Stüer/Probstfeld, Die Planfeststellung, 399ff See also Stüer, Handbuch des Bau- und Fachplanungsrechts, mns. 3509 to 3514

[371] Allgemeines Magnetschwebebahngesetz of 19 July 1996, BGBl. I, 1019, last amended by Art 303 of the ordinance of 31 October 2006, BGBl. I, 2407

[372] Bundesfernstraßengesetz (FStrG) as promulgated on 19 April 1994 (BGBl. I 854), as promulgated on 28 June 2007, BGBl. I, 1206

[373] Gesetz über den Ausbau der Bundesfernstraßen (Fernstraßenausbaugesetz – FStrAG) as promulgated on 20 January 2005, BGBl. I, 201, last amended by Art. 12 of the act of 9 December 2006, BGBl. I, 2833

[374] Bundesfernstraßengesetz (FStrG) as promulgated on 19 April 1994 (BGBl. I 854), as promulgated on 28 June 2007, BGBl. I, 1206

[375] On federal trunk road planning see Stüer/Probstfeld, Die Planfeststellung, München 2003, 176ff See also Stüer, Handbuch des Bau- und Fachplanungsrechts, mns. 2997 to 3093

[376] Bundeswasserstraßengesetz (WaStrG) as promulgated on 23 May 2007, BGBl. I, 962, last amended by section 9 of the ordinance of 18 March 2008, BGBl. I, 449

demolition of federal waterways requires prior planning approval (Section 14 of the Federal Waterways Act). In certain cases, planning permission may be possible (Section 14b).

The waterways and shipping directorates (*Wasser- und Schifffahrtsdirektionen*) are responsible for federal waterways. They are the competent authorities for planning approval, licensing, and hearings. Federal waterways planning is undertaken only in consultation with the states.[377]

Federal waterways, like federal trunk roads, are subject to a multi-stage approval procedure. Spatially significant sectoral planning is coordinated with the aims of comprehensive spatial planning by means of spatial planning procedures and preliminary routing procedures. Planning approval procedure or planning permission ensues. They can be renounced in cases of minor importance.

4.3.1.8. Regional and Local Waterways Construction

The states have not used their concurrent legislative powers under Article 74 of the Basic Law. Competence for waterways therefore lies exclusively with the Federation in consultation with the states.

4.3.1.9. Civil Aviation

Civil aviation planning is concerned with the construction, extension, and alteration of civil aviation airports and airfields with all the necessary facilities. The statutory basis for planning is the Federal Air Traffic Act.[378] It regulates the use of air space in the Federal Republic of Germany, the licensing of aircraft, aviation personnel, and the design and operation of airports and airfields with restricted building protection areas. In accordance with Section 17 of the Federal Air Traffic Act, airports and airfields with restricted building protection areas may be constructed and altered only on the basis of planning approval or planning permission (Section 8 (1) and (2) of the Federal Air Traffic Act). Licensing under Section 8 (6) of the Federal Air Traffic Act is not a precondition for planning approval or planning permission procedures. They can be renounced in cases of chance or extension of minor importance.

Special arrangements apply with respect to military airfields under Section 30 of the Federal Air Traffic Act (*Luftverkehrsgesetz*).[379] The Federal Armed Forces, the Federal Border Guard (now Federal Police), the police, and troops stationed in the Federal Republic of Germany under international treaties (e.g. American forces) may derogate from the general provisions of the Federal Air Traffic Act provided that this is necessary in the performance of their specific functions and taking due account of public safety and order. The planning approval procedure under Section 8 of the Federal Air Traffic Act is not required where military airfields are to be constructed or altered. In the event of expropriation proceedings for military airfields, the Land Procurement Act (*Landbeschaffungsgesetz – LBG*) applies.

4.3.1.10. Passenger Transport

The Federation itself engages in no planning with respect to public transport. The Passenger Transport Act (*Personenbeförderungsgesetz – PBefG*)[380]supplies the statutory basis for planning tramways and trolley bus systems as long-term infrastructural facilities. The act applies with respect to the conveyance of persons against payment or commercially by tramway, trolley bus, and motor vehicle, and the construction of facilities for tramways. As far as tramway and

[377] On federal waterways planning see Stüer/Probstfeld, Die Planfeststellung, 317ff See also Stüer, Handbuch des Bau- und Fachplanungsrechts, Rn 3482 to 3508

[378] Luftverkehrsgesetz as promulgated on 10 May 2007, BGBl. I, 698, last amended by Art 8 (20) of the act of 23 November 2007, BGBl. I, 2631

[379] Cf Stüer/Probstfeld, Die Planfeststellung, Verlag C.H. Beck, München 2004, Militärisch genutzte Flugplätze, Rn. 485ff

[380] Personenbeförderungsgesetz (PBefG) as promulgated on 8 August 1990, BGBl. I, 1690, last amended by Art 27 of the ordinance of 7 September 2007, BGBl. I, 2246

trolley bus facilities are concerned, planning approval procedure is required for construction, operation, and routing. In special cases, planning permission suffices.[381] The licensing authority is the body appointed by the states. In many non-city states the intermediate-tier administrative districts are entrusted with this function. Competence for planning approval under the Passenger Transport Act is vested in the states.[382] Projects under the Act can, however, also be prepared by local authorities by means of binding land-use plans.[383]

4.3.1.11. Telecommunications Facilities at the Federal, Regional and Local Levels

The planning of telecommunications facilities pursuant to the Telecommunications Act (*Telekommunikationsgesetz*)[384] includes the laying and use of transmission lines by licensees such as the Deutsche Telekom AG on public and private land. Under the act, telecommunications facilities are approved without formal procedures in consultation with the licensee and the local authority.[385] The Federation is authorised to use public roads free of charge unless this constitutes a lasting encroachment on the normal use of infrastructure (public waters, paths, squares, and bridges) (Section 68 (1) of the Telecommunications Act). The laying of new transmission lines and alterations to existing lines require the written consent of the authority responsible for constructing and maintaining public ways (Section 68 (3) of the Telecommunications Act). If this authority is itself an operator or there is cross-ownership between authority and operator, authorisation must be entrusted to an independent administrative unit (details in Section 68 (4) of the Telecommunications Act). Through the regulatory authority, the Federation transfers authorisation for use on written application to the operators of public telecommunications networks (Section 69 (1) of the Telecommunications Act).[386]

4.3.2. Utilities

4.3.2.1. Energy Facilities

In the case of energy facilities, it is a question of authorising lines for public electricity and gas supply in accordance with the Act on Electricity and Gas Supply (*Energiewirtschaftsgesetz*).[387] Energy lines serve the provision of essential public services in the public interest. Energy supply lines are needed at all planning levels. The Electricity and Gas Act aims to ensure the secure, inexpensive, consumer-friendly, efficient, and environmentally compatible supply of electricity and gas to the general public, the regulation of competition, and the safeguarding of the efficient and reliable operation of energy supply networks, as well as the transposition and implementation of European Community law (Section 1 (1) to (3) of the Act of the Supply of Energy and Gas).

According to Section 43 of the Act on the Supply of Electricity and Gas, planning approval by the authority responsible under state law is required for different lines. Otherwise, planning permission suffices. In case of minor importance, planning approval or permission is not required; no formal authorization procedure is demanded. In case of minor importance, planning permission is not required; no formal authorisation procedure is demanded (Section 43 (1) of the Act on the Supply of Electricity and Gas).[388]

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[381] Cf Stüer/Probstfeld, Die Planfeststellung, 2004, 303ff
[382] Cf Stüer, Handbuch für Bau- und Fachplanungsrecht, Rn. 3266 to 3271
[383] For instance, reservation of land for public thoroughfare (Section 9 (1) no. 11 of the Building Code) to secure routing.
[384] Telekommunikationsgesetz of 22 June 2004, BGBl. I, 1190, last amended by Art 2 of the act of 21 December 2007, BGBl. I, 3198
[385] Löhr, in: Battis/Krautzberger/Löhr, BauGB, § 38 Rn. 19
[386] See the Telekommunikationsgesetz for details
[387] Gesetz über die Elektrizitäts- und Gasversorgung (Energiewirtschaftsgesetz – EnWG), of 7 July 2005, BGBl. I, 1970 (3621), last amended by Art. 2 of the act of 18 December 2007, BGBl. I, 2966
[388] See the Energiewirtschaftsgesetz for details

Energy supply utilities assess supply infrastructure needs. Under state law, the competent planning approval authority decides on authorising projects. The preparation of projects under the Act on the Supply of Electricity and Gas can accompanied by binding land-use plans adopted by the local authority to secure infrastructure sites.[389]

4.3.2.2. Waste Avoidance, Recycling and Disposal at the State, District and County Levels

At issue in the field of waste avoidance, recycling, and disposal, are the planning, licensing, and operation of waste avoidance and recycling plants, as well as waste facilities and dumpsites.

The statutory basis for planning is provided by the Waste Avoidance, Recycling and Disposal Act (*Kreislaufwirtschafts- und Abfallgesetz*).[390]

State waste management plans are the basis on which waste avoidance and recycling goals are set and waste facilities and dumpsites planned. Waste management plans can be prepared at the state, district, or county level. State waste management plans (Section 29 of the Waste Avoidance, Recycling and Disposal Act) are the basis on which waste avoidance and recycling goals are set and waste facilities and dumpsites planned. Waste management plans can be prepared at the state, district, or county level (see for details also in corresponding state legislation). The public is to be involved in the preparation of waste management plans. The public is not to be involved when the plan in question requires a strategic environmental assessment pursuant to the Act on Environmental Impact Assessment (Section 29a of the Waste Avoidance, Recycling and Disposal Act). The states, administrative districts, or counties are responsible for requirements assessment in waste management planning at the various levels.[391]

At the beginning the qualified positions are to be explored. The instrument for authorising land disposal sites is planning approval under Section 31 (2) of the Waste Avoidance, Recycling and Disposal Act or planning permission. Waste incineration plants require authorisation in accordance with the Federal Immission Control Act (*Bundes-Immissionsschutzgesetz*)[392] (Section 31 (1) of the Waste Avoidance, Recycling and Disposal Act), while other facilities are subject to licensing procedure under waste legislation. Responsibility lies with the state authorities in charge of planning approval and permission procedures with respect to the Waste Avoidance, Recycling and Disposal Act or state pollution control authorities.

Projects under the Act on the Supply of Electricity and Gas can be prepared by local authorities by means of binding land-use plans (location safeguarding).[393] [394]

4.3.2.3. Nuclear Facilities

With regard to nuclear facilities, the planning, authorisation, and operation of nuclear power plants under the Atomic Energy Act (*Atomgesetz*) are at issue.[395] The Act on the Phase-Out of Nuclear Power[396] bans the construction of new, commercial nuclear power stations and restricts the residual operating life of existing nuclear power plants to 32 years from start up. This reduces planning in Germany to the building and operation of interim and final storage facilities.

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[389] Pursuant to Section 9 (1) nos. 12, 13, 21

[390] Gesetz zur Förderung der Kreislaufwirtschaft und zur Sicherung der umweltverträglichen Beseitigung von Abfällen)Kreislaufwirtschafts- und Abfallgesetz), of 27 September 1994 (BGBl. I, 2705, last amended by Art 7 of the act of 09 December 2006, BGBl. I, 2819

[391] Cf Stüer/Probstfeld, Die Planfeststellung, 308

[392] Gesetz zum Schutz vor schädlichen Umwelteinwirkungen durch Luftverunreinigungen, Geräusche, Erschütterungen und ähnliche Vorgänge (Bundes-Immissionsschutzgesetz – BImSchG), as promulgated 26 September 2002, BGBl. I, 3830, last amended by Art 1 of the act of 23 Oktober 2007, BGBl. I, 2470

[393] e.g. by designation under Section 9 (1) no 12 or 14 of the Building Code

[394] For details see Stüer, Handbuch des Bau- und Fachplanungsrechts, Rn. 3272 to 3372

[395] Gesetz über die friedliche Verwendung der Kernenergie und den Schutz gegen ihre Gefahren (Atomgesetz – AtG) as promulgated on 15 July 1985, BGBl. I, 1565, last amended by Art 4 of the act of 26 February 2008, BGBl. I, 215

[396] Gesetz zur geordneten Beendigung der Kernenergienutzung zur gewerblichen Erzeugung von Elektrizität of 22 April 2002 (BGBl. I 1351)

The statutory basis for nuclear power facilities is the Act on the Peaceful Use of Nuclear Power and Protection against its Hazards (*Gesetz über die friedliche Verwendung der Kernenergie und den Schutz gegen ihre Gefahren*). Planning is nowadays concerned with the research, development, and use of nuclear power for peaceful purposes and the planning and licensing of interim and final storage facilities. The construction and operation of facilities for the interim storage, safeguarding, and final storage of radioactive waste pursuant to Section 9a (3) of the Atomic Energy Act, as well as major alterations to such facilities or their operation require planning approval (Section 9b of the Atomic Energy Act). The planning of nuclear facilities is carried out in consultation between the Federation and the states.[397] Owing to public opposition to final and interim storage facilities, planning approval proceedings are extremely protracted. Functions and tasks under the Atomic Energy Act are performed by the Federation and the states (delegated administration).

4.3.2.4. Federal Framework Competence in Water Management: Implementation by the States

Public law relating to water includes water management law and waterways and water transport law (cf chapter II.4.5.1.7 and II.4.5.1.8). Water management is chiefly regulated by the Federal Water Act (*Wasserhaushaltsgesetz*),[398] which deals with the use of waterbodies and flood control in conformity with the principle of managing water resources in the public interest, as well as with the necessary administrative procedures. Water management deals with the making and construction, removal, and substantial redesign of bodies of water, banks and shores, dike-building, and flood control. Waterbodies are divided into first-order waterbodies (federal waterways), second-order waterbodies (major stretches of natural and artificial watercourses), and third-order waterbodies (all other watercourses). The statutory basis is the Federal Water Act and state water acts.

Under the Federal Water Act, projects are specially authorised by nonprofit or private planning approval (Section 31 (2)), planning permission (Section 31 (2)), permit (Section 7), or concession (Section 8).

Water management planning is subject to a multi-stage decision-making process: from state water management framework plans to assess requirements and coordinate spatial planning to planning approval or planning permission procedures. Projects can be publicly or privately initiated Specific projects are decided by the planning approval and permission authority competent under state law.[399]

Following devastating floods on the rivers Oder and Elbe at the beginning of the 21st century, flood control arrangements under the Federal Water Act[400] were improved to allow rivers more space and to eliminate the shortcomings in regulation and implementation that had become apparent.[401] These improvements were backed by amendments to the Federal Spatial Planning Act, the Federal Building Code, the Federal Waterways Act, and the Act on the German Meteorological Service (*Gesetz über den Deutschen Wetterdienst*). Key provisions are general principles for flood control (Section 31a of the Federal Water Act), the designation of flood hazard areas by the states (Section 31b) based on 100 years of flood history.[402]

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[397] Cf Stüer/Probstfeld, Die Planfeststellung, 403
[398] Gesetz zur Ordnung des Wasserhaushalts (Wasserhaushaltsgesetz – WHG) as promulgated on 19 August 2002, BGBl. I, 3245, last amended by Art 2 of the act of 10 May 2007, BGBl. I, 666
[399] For details see Stüer/Probstfeld, Die Planfeststellung, 344ff, see also Stüer, Handbuch des Bau- und Fachplanungsrechts, Rn. 3373 to 3449
[400] Art 2 of the Act to Improve Preventive Flood Control (*Gesetz zur Verbesserung des vorbeugenden Hochwasserschutzes*) of 25 June 2005, BGBl. I, 1746
[401] Cf Stüer, Handbuch des Bau- und Fachplanungsrechts, Rn. 3451ff
[402] For details see Stüer, Handbuch des Bau- und Fachplanungsrechts, Rn. 3450 to 3461

4.3.2.5. Water Management of Federal and implementation by the states

Local authorities or special purpose associations of local authorities are responsible for third-order waterbodies. At the local level, the same formal and material requirements apply for water management planning as at the federal and state levels.[403]

4.3.2.6. Mining at the Federal Level and State Levels

Mining and quarrying projects involve the prospecting, extraction and processing of resources open to prospecting and mining under permit and those belonging to the owner of the land, including loading, transport, unloading, storage, and deposition, as well the rehabilitation of pits and quarries. The statutory basis is provided by the Federal Mining Act (*Bundesberggesetz*).[404] The extraction of underground mineral resources is authorised in accordance with the Federal Mining Act. Special rules apply with respect to open-cast lignite mining.[405] A multistage preliminary procedure at the state level is required for state development plans pertaining to mining and open-cast lignite mining. Projects are subject to planning approval where environmental impact assessment is required pursuant to the EIA Ordinance on Mining Projects (*UVP-V Berbau*) (outline working plan procedure) with the appropriate mining-law plans (main working plans, outline working plans, special working plans, final working plan). If planning necessitates the clearance of localities, parliamentary regulation is reserved. Mining requirements are assessed indirectly through prior state spatial planning on spatial planning coordination regarding proposed extraction sites. On this basis, a project developer, for instance a commercial mining company, can apply to the competent federal or state authority for planning approval or permission.[406]

Land under which mining is being carried on and which is designated for the extraction of minerals are, pursuant to Section 5 (3) of the Building Code, to be shown in the preparatory land-use plan, and pursuant to Section 9 (5) in the binding land-use plan.

4.3.3. Defence

4.3.3.1. Land Procurement for Defence Purposes at the Federal Level

The Federation has exclusive competence with respect to defence. Under the Land Procurement Act (*Landbeschaffungsgesetz*)[407], the Federation may procure sites for the purposes of defence, of fulfilling international treaties, of installing or constructing defence facilities. The state government is to be involved, which expresses its views on the project after consulting the local authorities (associations of local authorities) affected and taking due account of spatial planning requirements, especially landscape, economic interests, urban development interests, as well as nature conservation and landscape management. In general, land is to be acquired by private contract (Section 2 of the Land Procurement Act). If this is not possible, expropriation (compulsory purchase) is permitted (Sections 10ff of the Land Procurement Act). On the request of the Federation, the competent federal minister or the federal authority determined by him institutes expropriation proceedings before the competent state expropriation authority (Section 28).

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[403] For a general treatment of water and urban development see: Fickert/Fieseler, Umweltschutz im Städtebau, vhw-Verlag, 459ff

[404] Bundesberggesetz – BBergG of 13 August 1980, BGBl. I, 1310, last amended by Art 159 of the ordinance of 31 October 2006, BGBl. I, 2407

[405] On lignite planning see Stüer/Probstfeld, Die Planfeststellung, Verlag C.H. beck München 2004, 432

[406] For general treatment see: Stüer/Probstfeld, Die Planfeststellung, 422ff See also Stüer, Handbuch des Bau- und Fachplanungsrechts, Rn 3556 to 3615

[407] Landbeschaffungsgesetz of 23 February 1957, BGBl. I 1957, 134, last amended by Art 28 (7) of the act of 7 Novembver 2007, BGBl. I, 2246

4.3.3.2. Restricted Areas for Military Defence

Restricted area planning for military defence is concerned with restricting the use of sites in the protection area for defence purposes. The statutory basis is the Act on Restrictions on Real Property for Purposes of Military Defence.[408]

A restricted area is one in which the use of land is restricted in accordance with the Restricted Areas Act (Section 1) by special order of the competent federal authority for purposes of defence, and especially to fulfil the obligations of the Federation under international treaties on the stationing and legal status of foreign states in the Federal Republic. If an area is to be declared a restricted area, the state government is to be involved, which expresses its views on the project after consulting the local authorities (associations of local authorities) affected and taking due account of spatial planning requirements, especially the interests of urban development and nature conservation and landscape management, as well as agricultural and economic interests (Section 1 (3) of the Restricted Areas Act). A restricted area is declared by order of the federal minister for defence (Section 2 (1) of the Restricted Areas Act). The declaration of a restricted area is to be notified to the property owners, authorised users, and other parties with property rights or published in the customary manner (Section 2 (1) of the Restricted Areas Act). The competent public authority must ascertain proprio motu at least every 5 years whether the conditions requiring declaration of the restricted area still pertain (Section 2 (4)). Certain measures within a restricted area require authorisation (Section 3 of the Restricted Areas Act) by the restricted area authorities (Section 9 (2)). Any property losses due the imposition of the restricted area are to be compensated (Sections 9ff of the Restricted Areas Act).

See chapter II.4.5.1.9. with regard to the military use of airports.[409]

4.3.4. Environmental Protection and Nature Conservation[410]

4.3.4.1. Protection Area Ordinances pursuant to the Federal Nature Conservation Act

Under Section 22 (1) of the Federal Nature Conservation Act (*Bundesnaturschutzgesetz*)[411], the states provide that parts and components of nature and landscapes may be designated as nature conservation areas, national parks, biosphere reserves, landscape conservation areas, nature parks, or natural monuments or protected components of landscapes. This designation defines the area or object to be protected, the purpose of protection, the required orders and prohibitions and, the necessary measures for care, development and restoration (Section 22 (2) of the Federal Nature Conservation Act). Pursuant to Section 22 (3) of the Federal Nature Conservation Act, the states have, in particular, adopted provisions on the interim protection and registration of protected parts and components of nature and landscapes and well as those under interim protection, and on their identification. Competence for designation, protected status procedure, and the legal forms of particular protection areas is regulated by the respective state nature conservation act.

The designation of protection areas is of particular importance for urban land-use planning because the provisions of the Federal Nature Conservation Act, of state nature conservation acts, and the legislation adopted could conflict with urban land-use planning. Planning in violation of higher ranking (nature conservation) law is forbidden. The possible consequences for land-use planning or for the designation of protection areas differ. They range from exemptions from

[408] Gesetz über die Beschränkung von Grundeigentum für die militärische Verteidigung (SchBerG) of 07 December 1956, BGBl. I, 899, last amended by Art 2 of the act of 12. August 2005, BGBl. I, 2345
[409] See also Stüer, Handbuch des Bau- und Fachplanungsrechts, Rn. 3232 to 3242
[410] For a general treatment of nature and landscape conservation see: Fickert/Fieseler, Umweltschutz im Städtebau, vhw-Verlag, 71ff
[411] Gesetz über Naturschutz und Landschaftspflege (Bundesnaturschutzgesetz – BNatSchG) of 25 March 2002, BGBl. I, 1193, last amended by Art 2 of the act of 8 April 2008, BGBl. I, 686

bans to partial repeal of a protection area ordinance or partial abandonment of the land-use planning.[412]

4.3.4.2. Nature Conservation Areas

The statutory basis for nature conservation areas is provided by Section 23 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts. Nature conservation areas aim to conserve the biotic communities or habitats of certain species of wild fauna and flora. Nature conservation areas are designed to provide particularly intensive protection for nature and landscape. To justify this purpose, it must be demonstrated that particular protection is needed for at least one of the reasons enumerated under Section 2 of the Federal Nature Conservation Act. An entire area of nature and landscape can be placed under protection – for example, certain ecosystems – or single areas, like migratory bird refuges. The restoration of ecosystems can also be a ground for protection. Changes in protected appearance, for example by the removal of vegetation and the construction of building are generally not permitted, nor is it allowed to stray from marked paths or to pick flowers, and the like. This strict protection is apparent in the extent and number of protection areas in this category: nature conservation areas occupy only a tiny percentage of the total national territory and are usually relatively small. Nature conservation areas are designated with binding effect by way of ordinance.

4.3.4.3. National Parks

The statutory basis for national parks is provided by Section 24 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts. National parks are extensive areas specifically designated and granted protected status because of their distinctive character, and which for most of their territory meet the requirements for designation as a nature conservation area. National parks are directly comparable with nature conservation areas, but they are larger and mostly accessible to the general public. Their purpose is to conserve the biotic communities or habitats of certain species of wild fauna and flora. National parks do not rank lower than nature conservation areas in their protective function. They are extensive areas not or little influenced by human beings, which largely have to meet the standards of a nature conservation area. Their dimensions permit a land management policy that enables the juxtaposition of non-accessible total protection zones and areas open to tourism. In Germany there are currently 6 national parks. A national park ordinance determines protected areas. Owing to their size, national parks play a role in spatial planning and are designated in consultation with the competent federal authorities.

4.3.4.4. Biosphere Reserves

The statutory basis is provided by Section 25 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts. Biosphere reserves are intended to protect and develop certain large-scale types of landscape that essentially meet the criteria for nature conservation areas. In size, biosphere reserves resemble national parks, but they take into account that there are no intact natural landscapes left in Central Europe, only specific, man-made landscapes (cultural landscapes). These cultural landscapes are to be preserved. For this reason, Section 25 (1) nos. 2 and 3 of the Federal Nature Conservation Act also refers to modes of cultivation and management. Biosphere reserves are composed of zones of differing intensity in protection, management, and economic activity, and of settled areas. Under Section 25 (2) of the Federal Nature Conservation Act, the states, while allowing for the exemptions required by settlements, etc., are required to ensure the same level of protection for biosphere

[412] Cf Bundesministerium für Verkehr, Bau- und Wohnungswesen (ed.), Leitfaden zur Handhabung der naturschutzrechtlichen Eingriffsregelung in der Bauleitplanung, Bearbeiter: Schäfer/Lau/Specovius

reserves as that afforded to nature and landscape conservation areas. Biosphere reserves are large protection areas within the remit of state ministries designated by way of ordinance.

4.3.4.5. Landscape Conservation Areas

The statutory basis for landscape conservations areas is provided by Section 26 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts. The status of landscape conservation areas ensures protection and development in areas requiring to maintain and restore the efficient functioning of natural systems or the viable use of natural resources. The protective purpose of landscape conservation areas can be both to maintain, develop or restore elements of nature or landscape, conservation on the grounds of diversity, characteristic features, and beauty, or of the particular historical and cultural significance of the area concerned, or in view of its special importance for recreation (Section 26 (2) of the Federal Nature Conservation Act). They differ from nature conservation areas in that designation as a landscape conservation area also affords protection for special characteristics and functions, for example recreation, whereas the nature conservation area is designed for the direct protection of nature and landscape. Although, for example, the construction of buildings is generally not compatible with the purpose of a landscape conservation area, the rules on protection are weaker (e.g. no ban on paths). Landscape conservation areas are areas designated by way of ordinance for the protection of nature and landscape.

4.3.4.6. Nature Parks

The statutory basis for nature parks is provided by Section 27 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts.

Nature parks are large areas particularly suitable for recreation owing to their landscape assets. Nature parks are areas to be developed and managed on a uniform basis, largely parts of landscape and nature conservation areas, which are destined for recreation and tourism in accordance with the aims of spatial planning (Section 27 (1) of the Federal Nature Conservation Act).

Nature parks are intended to combine nature conservation with landscape-related recreation. The focus is on recreation. As a rule, they encompass nature and landscape conservation areas and are divided into zones of various use intensity. The advantage is that larger areas can be uniformly developed by one body regardless of municipal or counties boundaries and borders. In practice, this is to some extent limited to uniform signposting and furnishing.

4.3.4.7. Natural Monuments

The statutory basis for natural monuments is provided by Section 28 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts. Individual creations of nature can be protected by given them the status of natural monuments (Section 28 (1) of the Federal Nature Conservation Act). This requires a specific protection ordinance, and in some state a local bye-law suffices. The objects in question can include rocks, geological outcrops, erratic blocks, glacier traces, sources, and, in particular, old and rare trees. Since amendment of the Federal Nature Conservation Act in 2002, “extensive natural monuments” up to 5 ha in size can be listed. Causing damage or lasting disturbance or disruption to a natural monument is forbidden and will be prosecuted as an administrative offence. The owner cannot be required to maintain natural monuments. The owner must, however, accept maintenance by the nature conservation authority.

4.3.4.8. Protected Components Of Landscapes

The statutory basis for protected components of landscapes is provided by Section 29 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts. This status can provide individual protection for specific groves or thickets, smaller waterbodies, or generic protection for certain plant species in defined areas, e.g. reeds, xeric grasslands. Unlike natural monuments, where protection is afforded to an object because of its nature as a monument, with components of landscapes the object as such is protected. The Federal Nature Conservation Act 2002 extended the purpose of protecting components of landscapes to development and restoration (Section 29 (1)). The municipality or county usually initiates designation.

4.3.4.9. Protected Biotopes

The statutory basis for protected biotopes is provided by Section 30 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts. Protected biotopes include many types of biotopes enjoying particular protection throughout the country. Pursuant to Section 20 (1) of the Federal Nature Conservation Act, state legislation has prohibited measures that may lead to the destruction or any other significant or lasting adverse impact on biotopes, placed further biotopes of state-wide importance under protection, and taken measures to safeguard the spatial extent and the ecological features of the biotopes concerned. By virtue of Section 30 (2) of the Federal Nature Conservation Act, the states may grant exceptions if adverse impacts on the biotopes can be offset or if the measures concerned are necessary for reasons of overriding public interest. The amendments to the Federal Nature Conservation Act in 2002 provide for further exceptions regarded biotopes that, for instance, have developed on land within the scope of extensivisation programmes. Statutory protection is afforded protected biotopes without a formal designation procedure being required.[413]

4.3.4.10. European Network "Nature 2000"

The European Bird Directive and Habitat Directive required the Federal Republic of Germany as a member state of the European Union to designate special protection areas. The aim was to create a coherent network of protection areas at the European level (Natura 2000).[414] [415] Member states of the European Union were required to report on such areas. Since the competent German authorities failed to report when required, the Federal Administrative Court ruled with reference to a decision of the European Court of Justice that areas worthy of protection are to be neither destroyed nor impaired in any other way, and has in effect recognised bird sanctuaries and potential habitat protection areas without formal designation.[416] As soon as each area is included in the Commission list and announced by publication in the Federal Gazette, the recognised protected status is no longer of importance. The prohibition of deterioration under Section 33 (5) of the Federal Nature Conservation Act then takes effect.

Plans[417] (including urban land-use plans) and projects which could have a very adverse impact on protected areas must be subjected to impact assessment pursuant to Section 34 and corresponding state legislation of the Federal Nature Conservation Act. Assessment of projects in the area covered by a binding land-use plan (Section 30 of the Federal Building Code) and during planning approval proceedings (Section 33 of the Federal Building Code) is not required. The yardstick to be applied is the purpose for designating the protected area. If the assessment

[413] Cf Louis, Bundesnaturschutzgesetz Kommentar, § 19a Rn. 1ff
[414] Cf Kuschnerus, Der sachgerechte Bebauungsplan, Rn. 422
[415] For comprehensive treatment see Louis/Engelke, BNatSchG, § 19a Rn. 10-26, § 19b Rn. 2-6, 29-31; Messerschmidt, Bundesnaturschutzgesetz, §§ 34ff; Stüer, Handbuch des Bau- und Fachplanungsrechts, Rn. 2823 to 2873
[416] Cf Kuschnerus, Der sachgerechte Bebauungsplan, Rn. 422 with further references
[417] Section 35 of the Federal Nature Conservation Act enumerates the plans for which Section 34 applies

shows that the project may give rise to significant adverse effects on a protected site, affecting the components of the site that are of a critical interest for relevant conservation objectives or the protection purpose concerned, the plan or project is deemed inadmissible (Section 34 (2) of the Federal Nature Conservation Act). In derogation therefrom, a plan or project can be authorised under Section 34 (3) of the Federal Nature Conservation Act if this project is necessary for *imperative reasons of overriding public interest*, including those of a social or economic nature (no. 1), and if there are *no other reasonable alternatives* for achieving the project's purpose at a different location without any or with less serious adverse effects (no. 2). Other reasons within the meaning of Section 34 (3) no. 1 can be considered only if the competent authority has obtained a relevant prior opinion from the EU Commission, via the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (Section 34 (4) of the Federal Nature Conservation Act). If the site affected by the plan or project contains *priority biotopes* or hosts *priority species*, the only *imperative reasons of overriding public interest* eligible are reasons relating to *human health, public safety including national defence and protection of the civilian population*, or the plan or project's *beneficial consequences of primary importance for the environment* (Section 34 (4) of the Federal Nature Conservation Act). If a project under Section 34 (3) or (4) of the Federal Nature Conservation Act is to be approved or carried out, the necessary measures to safeguard coherence of the "Natura 2000" European ecological network are to be provided for. The competent authority is to inform the EU Commission, via the Federal Ministry for Nature Conservation and Nuclear Safety, of the measures taken.

4.3.4.11. Habitat Network Systems at the State and Local Levels

The statutory basis for habitat network systems is provided by Section 3 of the Federal Nature Conservation Act and the provisions of the respective state nature conservation acts. The purpose of habitat network systems is to create interlinked biotopes on at least 10 % of the area of each state in order to interconnect protection areas (Section 3 (1) of the Federal Nature Conservation Act) A habitat network system consists of core areas, connecting areas, and connecting elements, with components of national parks, nature conservation areas, and biosphere reserves. Connecting areas are not secured by protective legislation. Habitat network areas can be secured by means of green structures plans or binding land-use plans, or by contractual nature conservation.

Planning competence lies with local authorities or counties. Such network systems can attain binding effect through binding land-use plans or green structures plans in bye-law form.

4.3.5. Forests

According to Section 1 of the Federal Forest Act (*Bundeswaldgesetz*)[418], forest is to be preserved, increased, safeguarded, and sustainably managed because of its economic utility and because of its significance for the environment, the efficient functioning of natural systems, climate, the water balance, clean air, soil fertility, the visual quality of landscape, the agrarian infrastructure, and recreation (Section 1 (1) of the Federal Forest Act). Forest is an area covered by forest flora. It is protected by law without prior designation. It is divided into the categories protective forest (Section 12 of the Federal Forest Act) and recreational forest (Section 13). Apart from the Federal Forest Act, the states have their own forest acts, adopted particularly for implementing forestry framework planning arrangements and to safeguard the functions of forests in planning and measures for public projects, for forest conservation and management, and for afforestation. For the management and development of forests, forestry framework plans

[418] Gesetz zur Erhaltung des Waldes und zur Förderung der Forstwirtschaft (Bundeswaldgesetz) of 2 May 1975, BGBl. I, 1037, last amended by Art 213 of the ordinance of 31 October 2006, BGBl. I, 2407

are prepared that take account of the aims and principles of spatial planning. The competent planning authorities are the forestry offices (*Forstamt*).[419]

4.3.6. Agriculture

Agricultural planning is concerned with the realignment of rural holdings to improve production and working conditions in farming and forestry, and with land improvement and development. The statutory basis is provided by the Land Consolidation Act (*Flurbereinigungsgesetz*).[420]

For the reorganisation of rural real property, plans of pathway networks and waterbodies and watercourses are prepared with landscape management support plans.[421] This is followed by planning approval proceedings or the simplified procedure for implementing planning. A special form is project realignment and consolidation (*Unternehmensbereinigung*), usually used in connection with the building of trunk roads. The Land Consolidation Act is carried out by the states. Implementation is the responsibility of land consolidation authorities, usually at the district or county level.

[419] On the treatment of forest in building law see: Fickert/Fieseler; Der Umweltschutz im Städtebau, vhw-Verlag, 1. Auflage 2002, 191-209

[420] Flurbereinigungsgesetz as promulgated on 16 March 1976, BGBl. I, 546, last amended by Art 22 of the act of 20 December 2007, BGB. I, 3150

[421] Cf Louis, Bundesnaturschutzgesetz Kommentar, § 8 Rn. 129

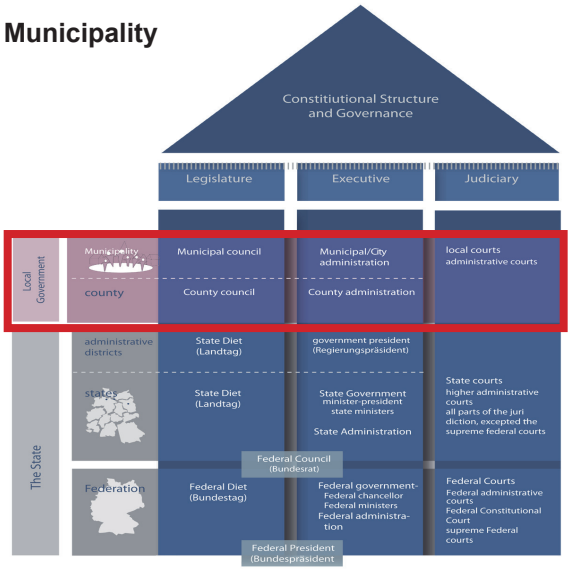
5. Fact Sheets

5.1. Practical examaples of local land-use planning

5.1.1. Binding Land-Use Plan 1-19, Berlin-Mitte

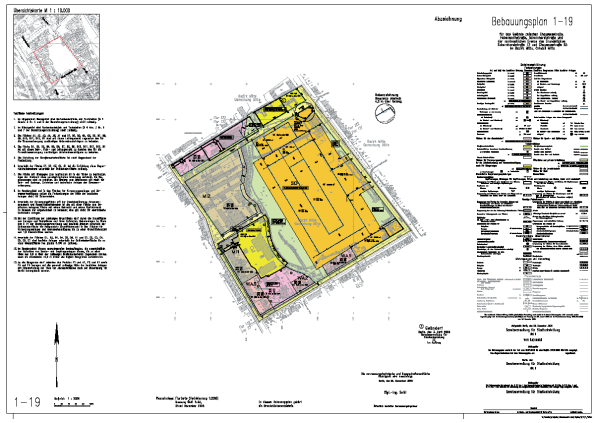
PLANNING LEVEL

Municipality



TYPE OF PLAN

Local develpoment plan



FACTS

Legal basis

- Federal Building Code (BauGB) as amended on September 23rd 2004 (BGBl. I 2414).
- Act on implementation of the Federal Building Code (AGBauGB) as amended on 7 November 1999 (GVBl. 578).
- Land Utilisation Ordinance (BauNVO) as amended on Januar 23rd 1990 (BGBl. I 132).

Competences

- Under Section 8 of the Act on Implementation of the Federal Building Code (AGBauGB), the preparation and establishment of the local development plan (binding land-use plan) are the responsibility of the Senate Department of Urban Development.

Binding force

- Generally binding municipal statute (bye-law).

Tasks and contents

- The primary purposes of the plan are to prepare construction of a complex for the Federal Intelligence Service (to accommodate between 4,000 and 5,000 staff)
- to renaturalise the river Panke green belt with a public riverside path and cycleway
- to secure the Federal Armed Forces Hospital
- to secure the kindergarten in the eastern section of the area.
- to relocate the children's playground from the Scharnhorststraße to the public green space
- to preserve and expand housing development
- to provide mixed-use development along Scharnhorststraße (in the eastern section)
- to secure and relocate sites for technical infrastructure

Process, duration, participation

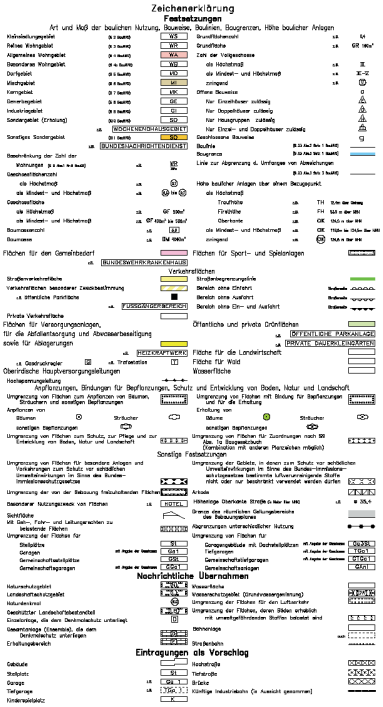
- Multiple public-authority and public participation pursuant to Sections 3 and 4a of Federal Building Code (22.11.2004 to 2.02.2006); the local development plan is still pending.

Duration of validity

- Local development plans (binding urban-land use plans) have a long-term planning horizon.

DEATAILS OF THE PLAN





CHARAKTERISTICS

Location of the area

The 23.35 ha area covered by Local Development Plan 1-19 (District Mitte, Subdistrict Mitte) is bounded by Chausseestraße, Habersaathstraße, Scharnhorststraße, the premises of the Federal Armed Forces Hospital and the property Chausseestraße 94.

Initial situation

The federal government has decided to build a new complex for the Federal Intelligence Service on this site in Chausseestraße. The Federal Intelligence Service plans to move in by 2011 at the latest.

Particularities of the procedure and/or contents

There are two special aspects to Local Development Plan 1-19. In this case, contrary to district planning procedure, preparation and establishment of the plan are the responsibility of a superordinate political authority, the Senate Department of Urban Development, the competent Berlin state authority. Under the Act Implementing the Federal Building Code, local development plan procedures can be assigned to the senate department if it is in the overall and urgent interest of Berlin, or where preparation and determination of the plan serve the requirements of the constitutional organs of the federation. Moreover, the statutory monitoring of substantial environmental impacts under Section 4c of the Federal Building Code (Monitoring) is to be carried out, a field in which Berlin still has little experience. Gender mainstreaming, which is subject to special monitoring, has been added to the usual protected assets and interests. Strengthening of social cohesion and identification with the public space in the planning area is to be achieved through participation by and involvement of specific sections of the population.

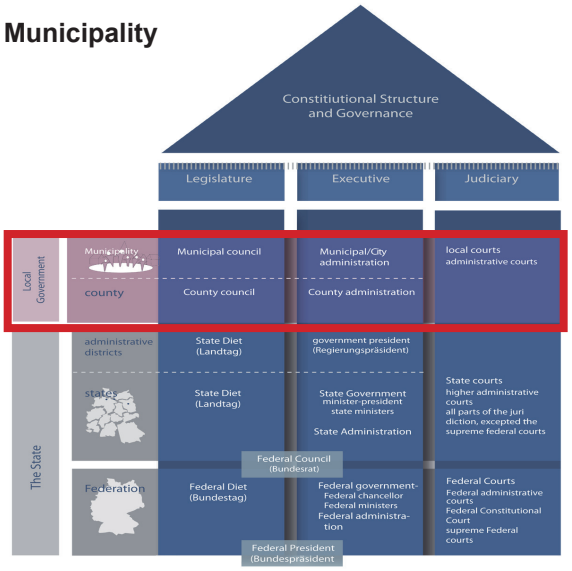
HINTS AND LINKS

www.parlament-berlin.de/Unterausschuss_BPlaene.nsf/
VGEX/F831970BDB4A72EEC125717 00037A493?OpenDocument

5.1.2. Binding Land-Use Plan Hamburg-Altstadt 32/HafenCity 1

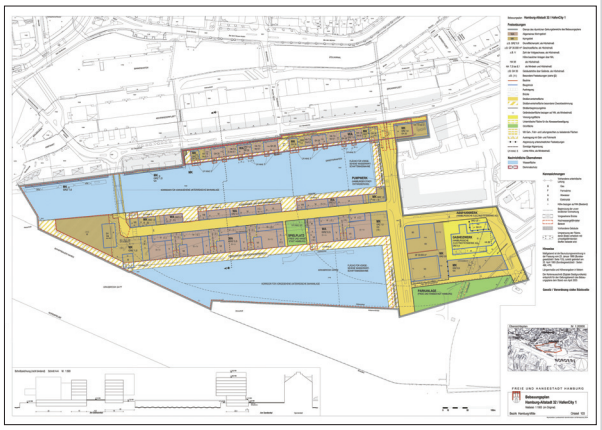
PLANNING LEVEL

Municipality



TYPE OF PLAN

Local develpoment plan



FACTS

Legal basis

- Federal Building Code (BauGB) as amended on August 27th, 1997 (BGBl. 1997 I 2142, 1998 I 137), last amended on June 24th, 2004 (BGBl. I 1359)
- Hamburg Building Regulations (HBauO) of July 1st, 1986 (HmbGVBl, 183), last amended on December 17th, 2002 (HmbGVBl, 347, 353)
- Second Ordinance Altering the Boundaries of the Port Precinct in the HafenCity Area of June 8th, 2004 (HmbGVBl. 253)
- Order for Implementation of the Federal Building Code and the Urban Land-Use Plan Approval Act (HmbGVBl. 271)

Competences

- The Authority for Urban Development and Environment is responsible for preparing and establishing the binding land-use plan pursuant to Section 1 of the Order for Implementation of the Federal Building Code and the Urban Land-Use Plan Approval Act.

Binding force

- Generally binding municipal bye-law. In Hamburg, binding land-use plans are issued in the form of statutory ordinances.

Tasks and contents

- Conversion of former port areas to extend the Hamburg city centre.
- Housing, Office and commercial development around Sandtorhafen.
- Development of public squares at the heads of Sandtorhafen and Grasbrookhafen.
- Development of public neighbourhood squares, embankment promenades, and a local park.

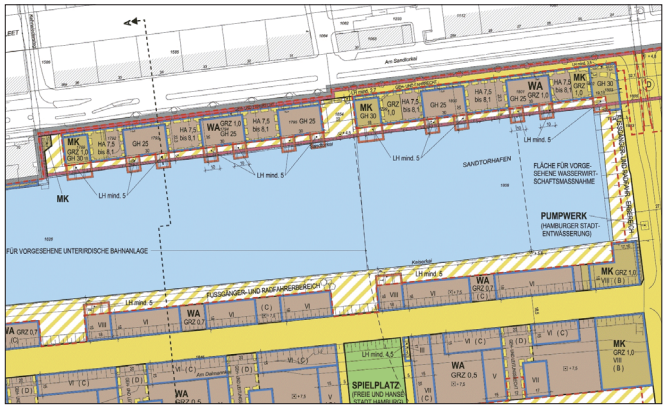
Process, duration, participation

- Urban design competition in summer/autumn 1998; workshop procedures 2001; open spaces competition for the western section of HafenCity 2002
- Senate decision on structural concept and objectives of the HafenCity master plan in February 2000.
- Multiple public-authority and public participation pursuant to Sections 3 and 4a of the Federal Building Code (April 26th, 2000 to October 23rd, 2003)
- The binding land-use plan was approved on October 27th, 2004.

Duration of validity

- Binding land-use plans have a long-term planning horizon.

DEATAILS OF THE PLAN



Festsetzungen

- Grenze des räumlichen Geltungsbereichs des Bebauu
- WA — Allgemeines Wohngebiet
- MK — Kerngebiet
- z.B. GRZ 0,9 — Grundflächenzahl, als Höchstmaß
- z.B. GF 30.000 m² — Geschossfläche, als Höchstmaß
- z.B. V — Zahl der Vollgeschosse, als Höchstmaß
- HA 58 — Höhe baulicher Anlagen über NN, als Höchstmaß
- HA 7,5 bis 8,1 — als Mindest- und Höchstmaß
- z.B. GH 30 — Gebäudehöhe über Gelände, als Höchstmaß
- z.B. (A) — Besondere Festsetzungen (siehe §2)
- Baulinie
- Baugrenze
- Auskragung
- Brücke
- Straßenverkehrsfläche
- Straßenverkehrsfläche besonderer Zweckbestimmung
- Straßenbegrenzungslinie
- Geländeoberfläche bezogen auf NN, als Mindestmaß
- Versorgungsfläche
- Unterirdische Fläche für die Abwasserbeseitigung
- Grünfläche
- Mit Geh-, Fahr- und Leitungsrechten zu belastende Flächen
- Auskragung mit Geh- und Fahrrecht
- Abgrenzung unterschiedlicher Festsetzungen
- Sonstige Abgrenzung
- LH mind. 5 — Lichte Höhe, als Mindestmaß

Nachrichtliche Übernahmen

- Wasserfläche
- D — Denkmalschutz

Kennzeichnungen

- Vorhandene unterirdische Leitung
- G — Gas
- F — Fernwärme
- A — Abwasser
- E — Elektrizität
- Höhe bezogen auf NN (Bestand)
- Begrenzung der unverbindlichen Vormerkung
- Vorgesehene Brücke
- Hochwassergefährdeter Bereich
- Vorhandene Gebäude
- Umgrenzung der Fläche, deren Böden erheblich mit umweltgefährdenden Stoffen belastet sind

CHARAKTERISTICS

Location of the area

The area covered by the plan encompasses about 13 ha of land area and a total of 11 ha water area in Grasbrookhafen and Sandtorhafen. The planning area in Hamburg-Altstadt is bounded by the streets Am Sandtorkai, Großer Grasbrook, Am Dalmannkai, the so-called KLG axis, and by Grasbrookhafen.

Initial situation

The Binding Land-Use Plan Hamburg-Altstadt 32/HafenCity provides the basis in planning law for implementing the first stage in developing the neighbourhood south of the Speicherstadt between Kaiserhöft and the Elbe bridges, the HafenCity. The HafenCity project is due for completion in 2025.

Particularities of the procedure and/or contents

A master plan has been developed for the HafenCity. It is based on the winning design in the 1999 urban design competition. The Hamburg Senate adopted the aims of the master plan in February 2000 as binding planning specifications. In January 2001, an urban design workshop was held on the basis of the master plan, and the results were incorporated in a functional plan. The functional plan provides the basis for the binding land-use plan. One particular feature are the single-storey interposed structures which will provide a continuous flood control line. These structures entail 100 % building area coverage. Nevertheless, the requirements for healthy living and working conditions will be met and adverse impacts on the environment avoided.

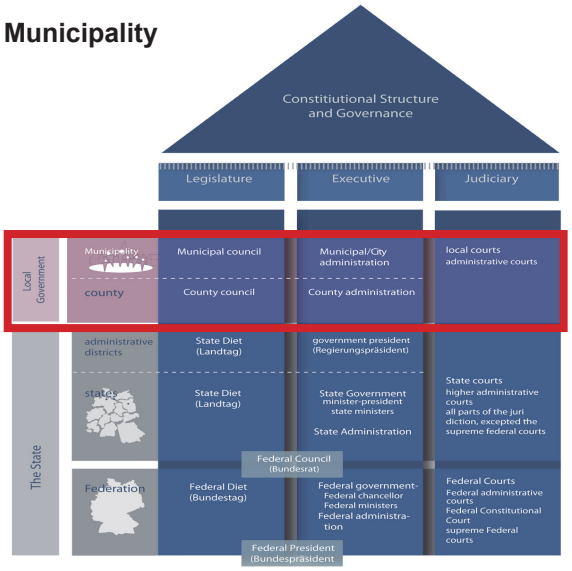
HINTS AND LINKS

Begründung zum Bebauungsplan Hamburg-Altstadt 32/HafenCity 1
www.hafenCity.com

5.1.3. Binding Land-Use Plan Volksdorf 40, Hamburg-Wandsbek

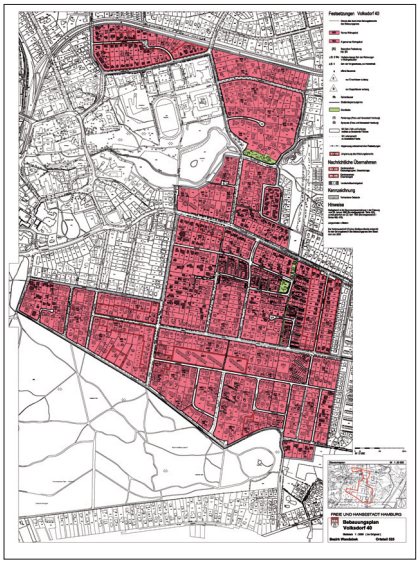
PLANNING LEVEL

Municipality



TYPE OF PLAN

Local development plan



FACTS

Legal basis

- Federal Building Code (BauGB) as amended on September 23rd, 2004 (BGBl. I 2415), amended on May 3rd, 2005 (BGBl. I 1224, 1226).
- Urban Land-Use Plan Approval Act as amended on November 30th, 1999 (HmbGVBl. 271), amended on September 6th, 2004 (HmbGVBl. 356)
- Delegation of Regulatory Powers Ordinance – Construction of June 28th, 2000 (HmbGVBl. 134) as amended on February 1st, 2005 (HmbGVBl 21).

Competences

- The district authorities are responsible for preparing and establishing the binding land-use plan pursuant to Section 3 of the Order for Implementation of the Federal Building Code and the Urban Land-Use Plan Approval Act.

Binding force

- Generally binding municipal bye-law. In Hamburg, binding land-use plans are issued in the form of statutory ordinances.

Tasks and contents

- Protecting the historic urban structure against misdirected urban development involving construction incompatible with the area; setting a ceiling on the number of dwellings in residential buildings.
- Establishing the planning law conditions for urban development while paying due regard to the still intact single-family home structure.
- Prescription of single or two-storey, open development and a reduced site occupancy index.

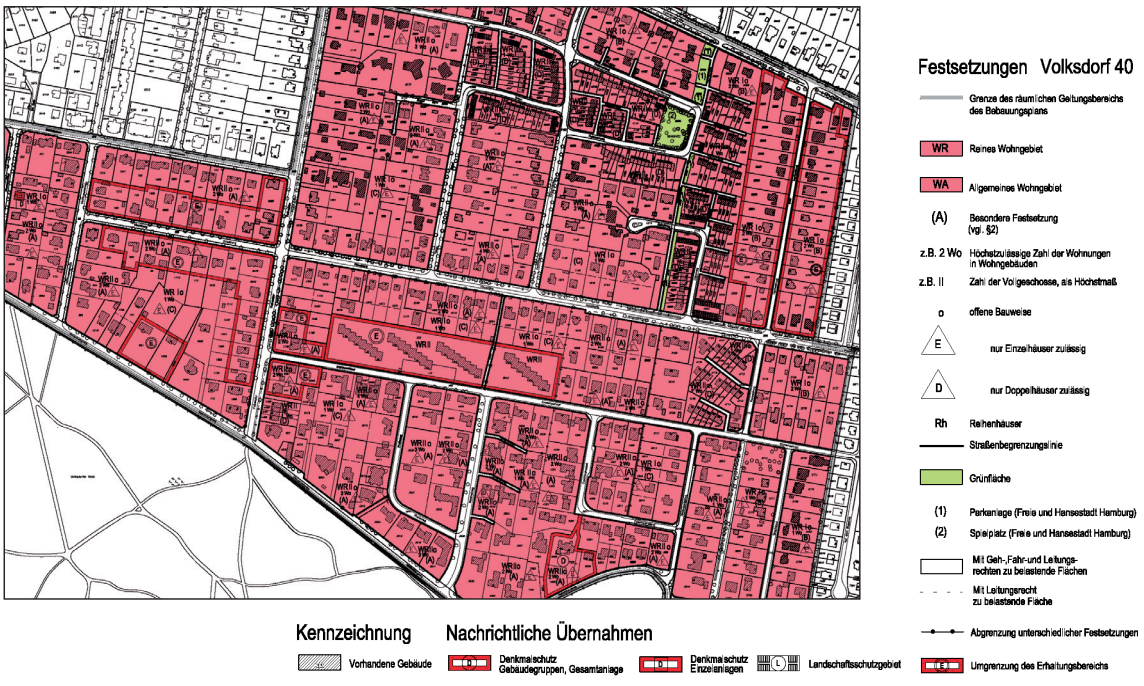
Process, duration, participation

- Planning procedure was given the go-ahead on July 28th, 2000 (Aufstellungsbeschluss W 3/2000).
- Multiple public-authority and public participation pursuant to Sections 3 and 4a of Federal Building Code (June 20th, 2000 to August 31st, 2001 and October 30th, 2002).
- Approval of the binding land-use plan in June 2005.

Duration of validity

- Binding land-use plans have a long-term planning horizon.

DEATAILS OF THE PLAN



CHARAKTERISTICS

Location of the area

The planning area covers 1,043,700 square meters and is situated between the underground railway line Volksdorf-Buchenkamp and Volksdorfer Wald in Hamburg, District Wandsbeck, Subdistrict 525. It is the oldest pre-urban area in Volksdorf, clearly reflecting development from village to excursion resort, to country cottage suburb and residential suburb.

Initial situation

Volksdorf Binding Land-Use Plan 40 is the first of three such plans to ward off inappropriate urban development. On the basis of the 1955 Volksdorf Zoning Plan, more and more multi-family housing has been built that bears no recognisable relation to existing development and which considerable impairs a settlement structure worthy of protection.

Particularities of the procedure and/or contents

Some parts of the area are being converted from purely residential or mixed-use areas into general residential areas in accordance with the following criteria: building stock must be characterised by typical uses of a general residential area, proximity to the core of the community, and good access to a major road.
Housing needs in the city as a whole threaten the self-contained character of the area as a "woodland village" settlement entity. Conservation areas are therefore designated to preserve the visual quality of the community. In some parts, there are settlements and building ensembles of outstanding, particularly historic or artistic importance that should be protected. The hitherto applicable binding land-use plans for the planning area have been repealed.

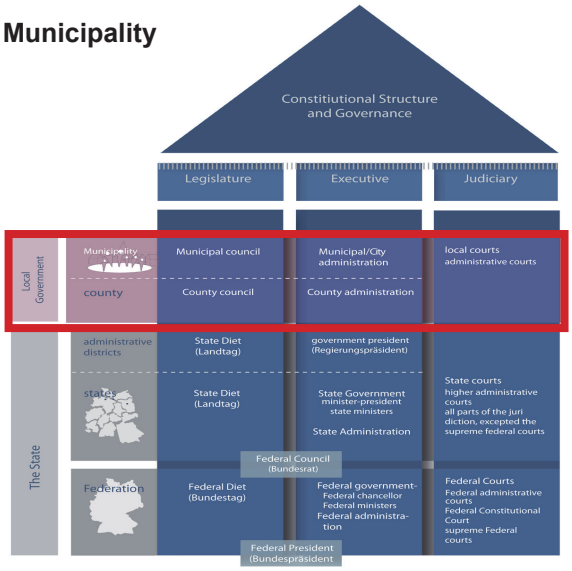
HINTS AND LINKS

Begründung zum Bebauungsplan Volksdorf 40

5.1.4. Preparatory Land-Use Plan Hamburg, 1997

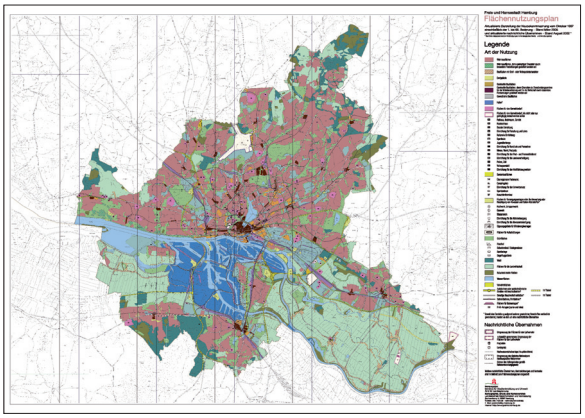
PLANNING LEVEL

Municipality



TYPE OF PLAN

Local develpoment plan



FACTS

Legal basis

- Federal Building Code (BauGB) as amended on December 8th, 1986, last amended on December 20th, 1996.
- Hamburg Act on the Approval and Securing of Urban Land-Use Plans as amended on April 4th, 1978, last amended on June 25th, 1997.

Competences

- Under Section 1 of the Act on the Approval and Securing of Urban Land-Use Plans, preparing and establishing preparatory land-use plans (PLUPs) is the responsibility of the Hamburg Senate, and the PLUP is adopted by the Bürgerschaft (Hamburg state parliament).

Binding force

- Hamburg state ordinance with binding effect on the relevant public authorities and public agencies. The preparatory land-use plan has no directly binding effect on private individuals.

Tasks and contents

- The preparatory land-use plan incorporates the goals and principles for spatial planning, the specifications of joint state spatial planning, and the aims of urban development planning, implementing them for the territory of the municipality as a whole in a land-use structure concept. The concept is presented in generalised form.
- The PLUP addresses housing, workplaces, the port, in-centre sites/retailing, open spaces, sites for public amenities, utilities, and transport.

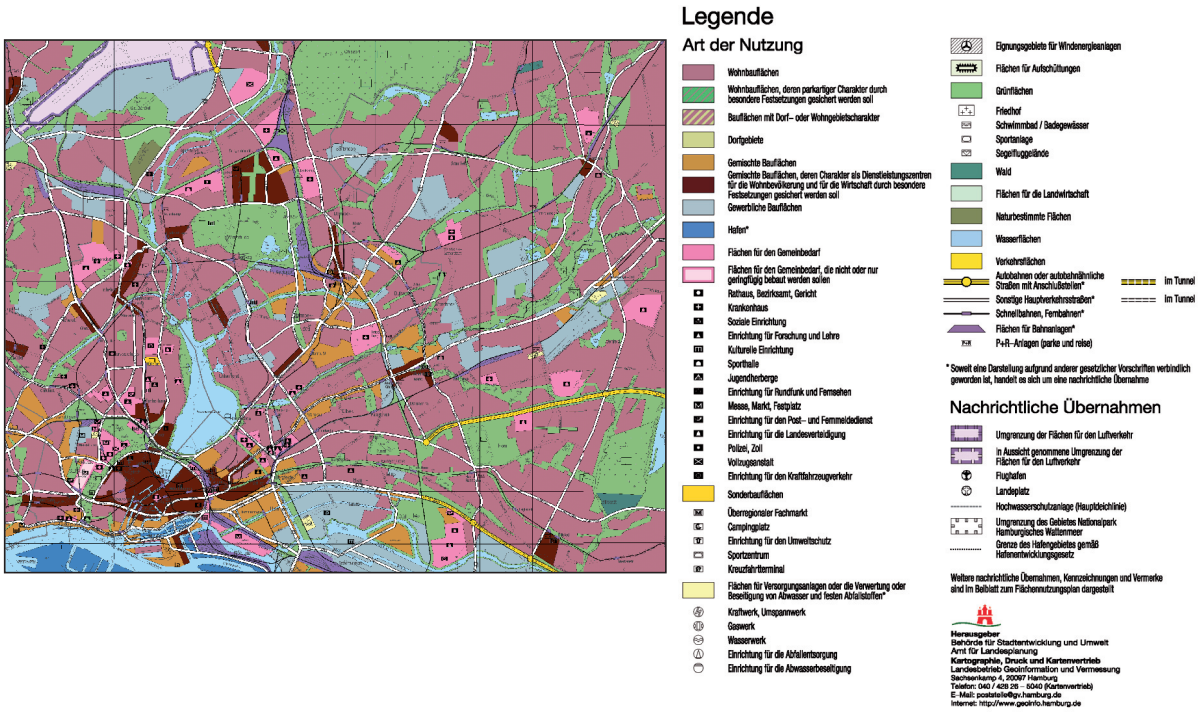
Process, duration, participation

- Thoroughgoing revision of the old PLUP began in 1993.
- Multiple public-authority and public participation pursuant to Sections 3 and 4a of the Federal Building Code (spring 1995, April 4th,1996 to May 31st, 1996).
- Adoption of the preparatory land-use plan and explanatory memorandum by the Hamburg Bürgerschaft on May 22nd, 1997.

Duration of validity

- The preparatory land-use plan covers the period up to 2010.

DEATAILS OF THE PLAN



CHARAKTERISTICS

Location of the area

The preparatory land-use plan covers the entire territory of the city-state. The Free and Hanseatic City of Hamburg is the second largest city in Germany. It is also a state of the Federal Republic of Germany. Hamburg borders on the states of Schleswig-Holstein and Lower Saxony. With a total area of 755 square kilometres, Hamburg has a population of about 1.7 million. The territory of the city is divided and subdivided into different categories of districts: 7 "Bezirke," 104 "Stadteile" and 180 "Ortsteile."

Initial situation

Since the early 1990s, Hamburg has faced major changes. German unification, the opening up of Eastern Europe, the development of the European internal market, and the enlargement of the European Union have crucially enhanced the development prospects of the city. Future tasks require up-to-date conceptions at all planning levels.

Particularities of the procedure and/or contents

Revision of the preparatory land-use plan brought 375 formal amendments. They were consolidated and dealt with jointly in accordance with statutory procedures.
The Hamburg preparatory land-use plan takes account of regional-planning aspects. Settlement development is oriented on rail traffic axes, keeping the landscape axes extending into inner areas of the city free from building development. Services are provided in a polycentric system, avoiding non-integrated, large service centres, especially on the urban fringe.
87 amendments have been considered since promulgation of the revised plan in 1997 (status 2006).

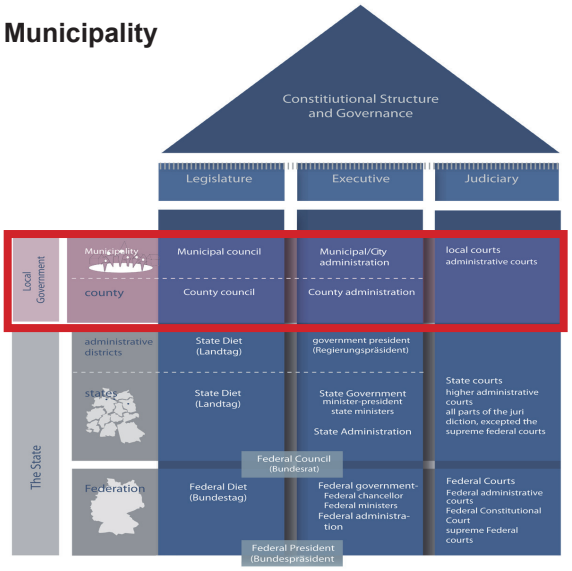
HINTS AND LINKS

Freie und Hansestadt Hamburg (Hrsg.): Erläuterungsbericht, Neubekanntmachung vom Oktober 1997
Statistisches Amt für Hamburg und Schleswig-Holstein (Hrsg.): Statistisches Jahrbuch Hamburg 2004/05

5.1.5. Preparatory Land-Use Plan Kiel, 2000

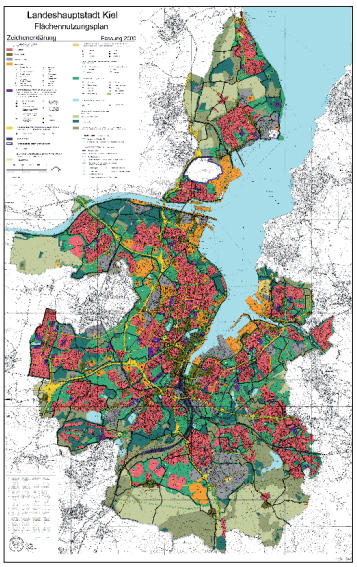
PLANNING LEVEL

Municipality



TYPE OF PLAN

Local development plan



FACTS

Legal basis

- Federal Building Code (BauGB) as promulgated on August 27th, 1997.
- Federal Spatial Planning Act (ROG) as amended on January 23rd, 1990

Competences

- Under Section 2 of the Federal Building Code (BauGB), preparing and establishing the preparatory urban land-use plan is the responsibility of the municipality, in this instance the competent local planning office.

Binding force

- Municipal bye-law with binding effect on the relevant public authorities and public agencies. The preparatory land-use plan (PLUP) has no directly binding effect on private individuals.

Tasks and contents

- The preparatory land-use plan is an overall plan for the future urban development of the city of Kiel.
- The PLUP shows areas of land with their designated land-use categories: residential, mixed uses, commercial and industrial, special uses, etc. The planned uses of undeveloped land are also shown, like green spaces, agricultural land and woodland, and areas designated for the conservation, management, and development of nature and landscape.
- Plans and other land-use rules pursuant to other statutory provisions are included in the plan for information purposes, e.g. nature reserves and landscape conservation areas.

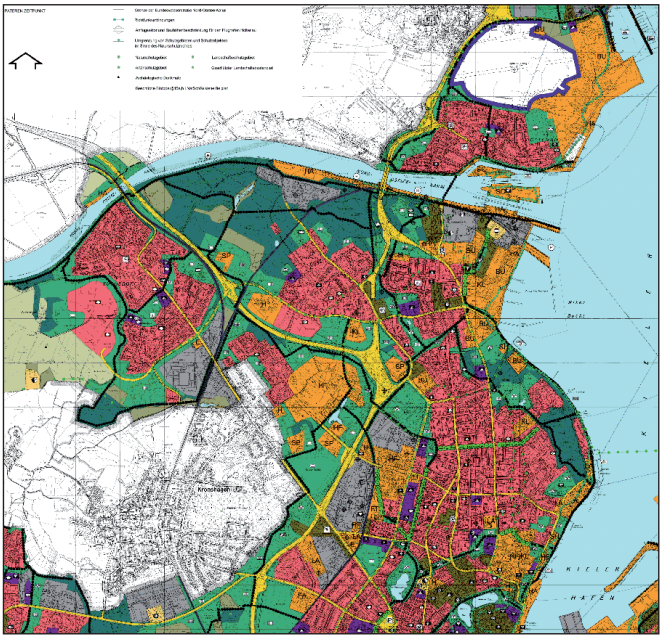
Process, duration, participation

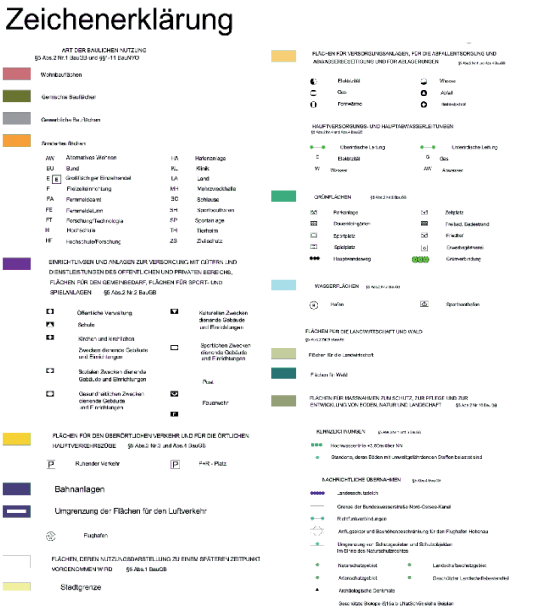
- Multiple public-authority and public participation pursuant to Sections 3 and 4a of the Federal Building Code (April 1998 to May 1998, June 1999 to July 1999).
- Partial approval by the Schleswig-Holstein Ministry of the Interior in 2001.
- Put into force by decision of the city council on February 1st, 2002

Duration of validity

- The preparatory land-use plan covers a period of between 10 and 15 years.

DEATAILS OF THE PLAN





CHARAKTERISTICS

Location of the area

The preparatory land-use plan covers the entire territory of the city. The Schleswig-Holstein capital Kiel lies on the Baltic coast of the state. The favourable location on the Baltic coast and on the North Sea-Baltic Canal makes Kiel an important port city for Scandinavian and Eastern European countries. The city covers an area of 11,230 ha, is divided into 30 districts, and has a population of about 234,000.

Initial situation

The population of Kiel has been falling since 1992. Unemployment in the city is also 3 % higher than in the state and the country as a whole. German re-unification and the opening of the eastern borders, as well as the increasing globalisation of markets has confronted Kiel, too, with greater competition from other cities.

Particularities of the procedure and/or contents

One structural peculiarity is the independent municipality of Kronshagen, which, although not part of the city, is almost entirely surrounded by the city territory.
Another peculiarity is an expanse of land to the Southwest of the regional airport. In the draft plan, this area is designated as residential land. During public display of the PLUP, reservations were expressed that housing development in this location could result in restrictions on air traffic, thus hampering the further development of the regional air port. An expert opinion on the noise situation was commissioned. The report could not be completed before adoption of the preparatory land-use plan. Use designation has accordingly been postponed.

HINTS AND LINKS

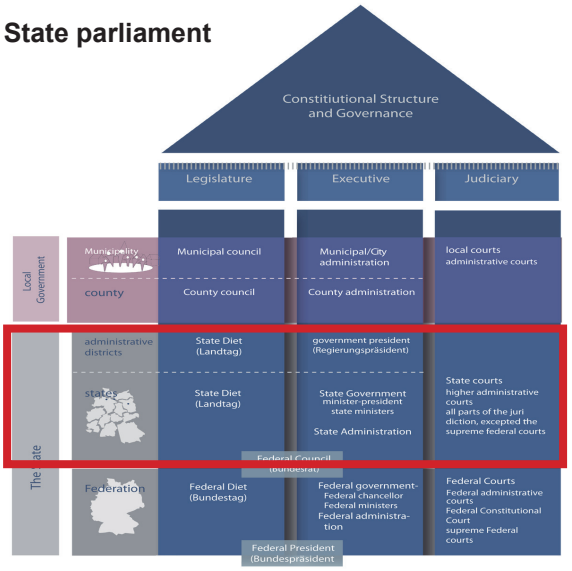
www.kiel.de
Landeshauptstadt Kiel (ed.): Flächennutzugsplan 2000, Erläuterungsbericht, Kiel, 2002

5.2. Practical examples of Supra-Local Planning Levels

5.2.1. Regional Plan, Planning Area I (Schleswig-Holstein South)

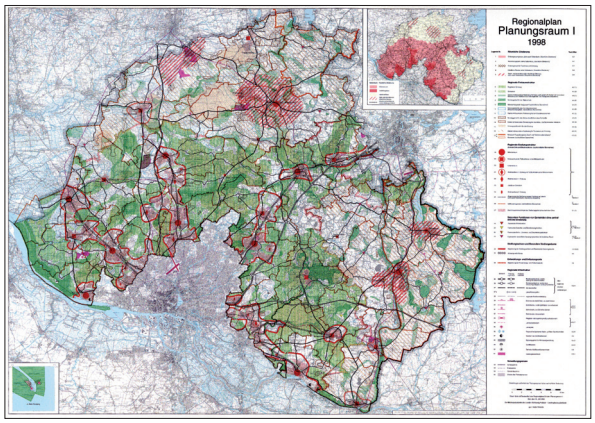
PLANNING LEVEL

State parliament



TYPE OF PLAN

state spatial development programme



FACTS

Legal basis

- Schleswig-Holstein State Spatial Planning Act (LaplaG) as promulgated on June 10th, 1992 (GVOBl. Schl.-H. p. 114).
- State Development Principles Act (LEGG) of October 31st, 1995 (GVOBl. Schl.-H. p. 364).
- Federal Spatial Planning Act (ROG) of August 18th, 1997.

Competences

- Under Section 7 of the State Planning Act, the preparation, amendment, and repeal of regional plans is the responsibility of the state planning authority, the Ministry for Rural Areas, State Plan-ning, Agricultural, and Tourism. Counties and county-free cities participate.

Binding force

- State ordinance with binding effect on all public authorities and public planning agencies. There is no direct legal effect on private individuals.

Tasks and contents

- The regional plan addresses the general state spatial planning principles laid down in the Schleswig-Holstein State Spatial Structure Plan and in the State Development Principles Act in more specific form with regard to particular spatial development issues.
- The regional plan deals with fundamental goals and with spatial structure, regional open space structure, regional settlement structure, and the regional economy and infrastructure.

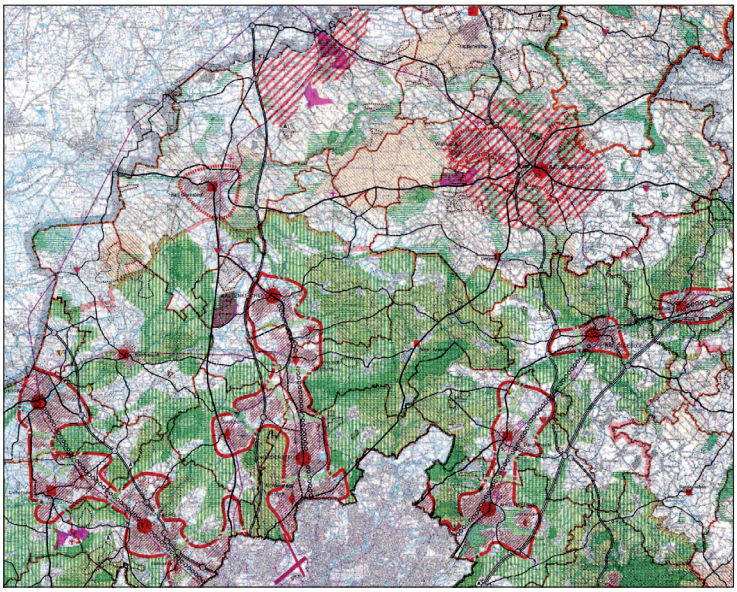
Process, duration, participation

- Participation of local territorial authorities.
- Workshops at the outset of the procedure.
- In close collaboration with county authorities, a working group prepared the draft and assessed the outcomes of formal hearing and participation procedures.
- The 1998 revised version of the regional plan came into force for the planning area in October 1998.

Duration of validity

- The regional plan covers the period up to 2010.

DEATAILS OF THE PLAN





CHARAKTERISTICS

Location of the area

The regional plan applies for Planning Area I, which encompasses the counties Pinneberg, Segeberg, Stormarn, and Herzogtum Lauenburg and is part of the Hamburg metropolitan region. The planning area is 4,037 square kilometres in size and has a population of about 890,000.

Initial situation

As a result of German unification, the expansion of the European Union to include Scandinavia, and the opening up of Central and Eastern Europe, Planning Area I has increased considerably in importance, and, being at the intersection of major European transport and development axes, it will continue to grow. The planning area is the most populous region in the state with the largest, most densely populated regulatory areas.

Particularities of the procedure and/or contents

The regional plan provides a development, regulatory, and promotion framework for securing the efficient functioning of the region and its natural systems, and to strengthen its competitiveness.
The plan was drawn up in a process of broad, societal debate. In collaboration with regional and state spatial planners, a wide range of regional actors contributed, from local politicians and administrative experts to representatives of the regional economy, the trade unions, environmental organisation, and social and cultural associations and institutions. Giving shape and structure to the region is an open process, developing from the local regional level and relying on the principle of voluntary cooperation.

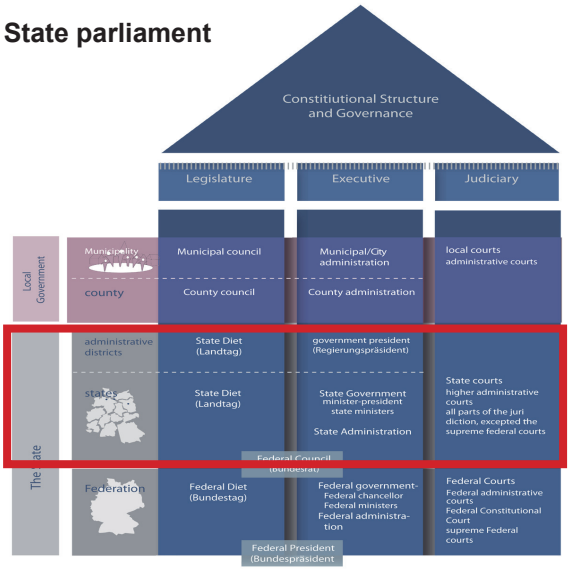
HINTS AND LINKS

http://landesregierung.schleswig-holstein.de
Regionalplan für den Planungsraum I – Schleswig-Holstein Süd (Fortschreibung 1998)

5.2.2. Regional Plan, Planning Area III, Technology Region K.E.R.N.

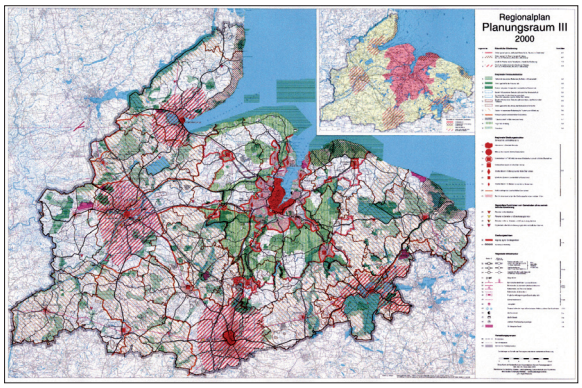
PLANNING LEVEL

State parliament



TYPE OF PLAN

Regional plan



FACTS

Legal basis

- Schleswig-Holstein State Spatial Planning Act (LaplaG) as amended on February 10th, 1996 (GVOBl. Schleswig-Holstein 232)
- State Development Principles Act (LEGG) of October 31st 1995 (GVOBl. Schleswig-Holstein 364).
- Federal Spatial Planning Act (ROG) of August 18th 1997.

Competences

- Under Section 7 of the State Spatial Planning Act, the preparation, amendment, and repeal of regional plans is the responsibility of the state spatial planning authority, in this case the Ministry for Rural Areas, State Planning, Agricultural, and Tourism. Counties and county-free cities participate.

Binding force

- State ordinance with binding effect on all public authorities and public planning agencies. There is no direct legal effect on private individuals.

Tasks and contents

- The regional plan addresses the general state spatial planning principles laid down in the Schleswig-Holstein State Spatial Structure Plan and in the State Development Principles Act in more specific form with regard to particular spatial development issues.
- The regional plan deals with development trends, regional guidelines, regional structure, regional open-space structure, regional settlement structure, and the regional economy and infrastructure.

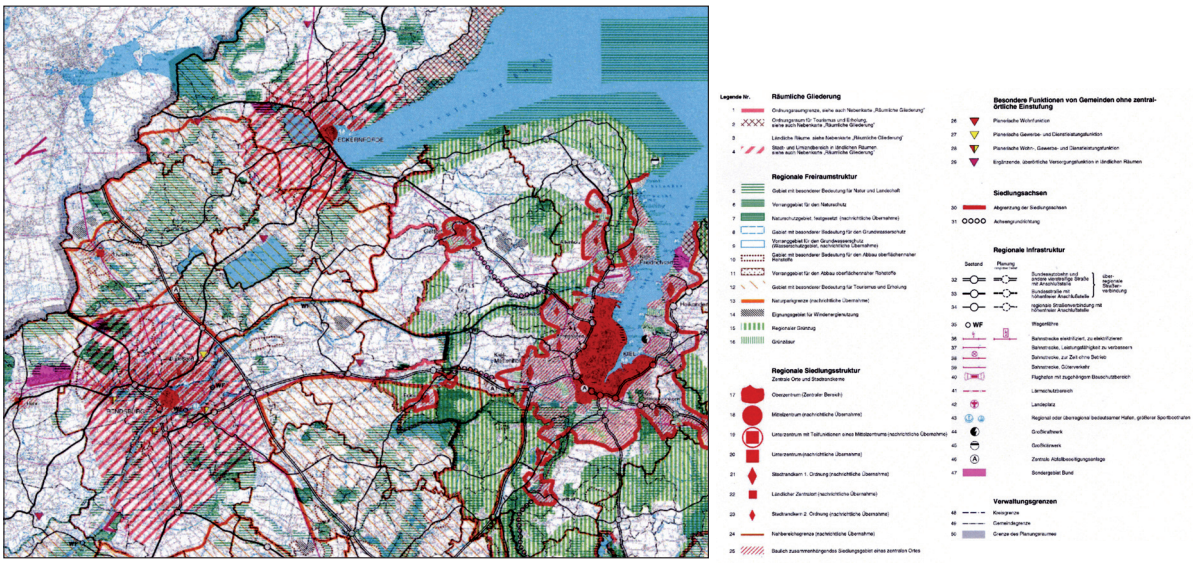
Process, duration, participation

- The Regional Plan 2000 is the outcome of a three-year planning process.
- Besides information events and notification of municipalities on the main outcomes of the extensive hearing and participation procedures, numerous coordination talks were conducted with individual local authorities, institutions, and organisations.
- The 2000 revised version of the regional plan came into force for Planning Area III in February 2001.

Duration of validity

- The plan covers the period up to 2015.

DEATAILS OF THE PLAN



CHARAKTERISTICS

Location of the area

The regional plan covers Planning Area III (Schleswig-Holstein Centre), which includes the county-free cities of Kiel and Neumünster and the counties Plön and Rendsburg-Eckernförde, as well as the Baltic Sea up to the limit of territorial waters. The area covered by the regional plan coincides with the K.E.R.N. Technology Region developed in 1991. In early 1999, the planning area had a population of 715,000 and an area of 3,452 square kilometres.

Initial situation

The point of departure for spatial and economic development in the planning area has changed considerably in recent years owing to national and international developments, as well as to developments in the state as a whole and in the region.

Particularities of the procedure and/or contents

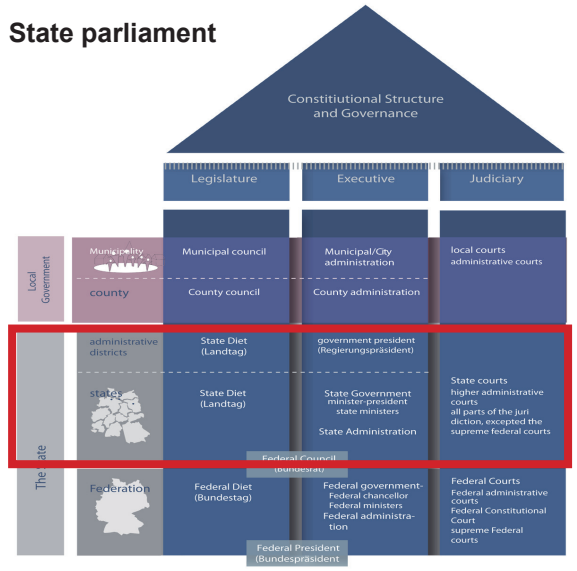
The regional plan for Planning Region III is intended to provide a regulatory and development framework in state planning for sustainable development in the K.E.R.N. region. During the preparation stage, a great deal of consultation took place especially with the Technologie-Region K.E.R.N. e.V.
In collaboration with the state planning authority, the association provided input for updating the regional plan in the form of a study on the basis and aims of development for the K.E.R.N. region. The findings of this study were incorporated directly in the regional plan.

HINTS AND LINKS

http://landesregierung.schleswig-holstein.de
Regionalplan für den Planungsraum III – Technologie-Region K.E.R.N. (Fortschreibung 2000)

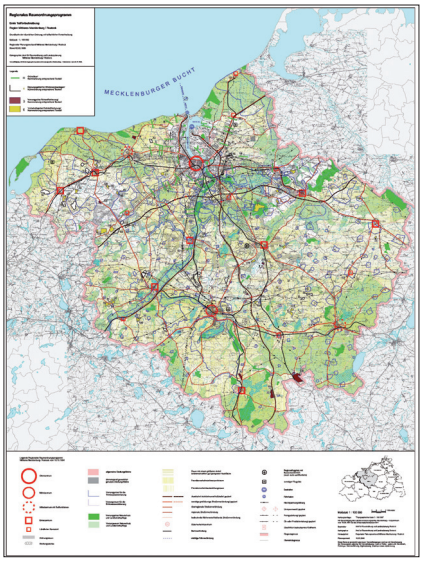
5.2.3. Regional Spatial Structure Programme Central Mecklenburg/Rostock

PLANNING LEVEL



TYPE OF PLAN

Regional spatial structure programme



FACTS

Legal basis

- Federal Spatial Planning Act (ROG) as promulgated on April 28th, 1993 (BGBl. I, 630), amended by statute on December 27th, 1993 (BGBl. I, 2378);
- Mecklenburg-West Pomeranian State Spatial Planning Act (GVO Bl. M-V, 242ff) of March 31st, 1992, Sections 4, 8 and 9;
- State Ordinance on the "First Mecklenburg-West Pomeranian State Spatial Structure Programme" of July 16th, 1993;
- Decision of the Central Mecklenburg/Rostock Regional Planning Association (RPMM 5/92 of December 7th, 1992).

Competences

- Under Section 9 of the MV State Planning Act (LPlG), the preparation, amendment, and repeal of the Regional Spatial Structure Programme is the responsibility of the regional planning associations.

Binding force

- State ordinance with binding effect on all public authorities and public planning agencies.

Tasks and contents

- The first partial update, in force since 1994, substantially amends and develops the programme.
- It shows localities in the regions classified by degree of centrality (high-order centre, middle-order centre, low-order centre, rural central place), the Rostock urban region, regional settlement axes, green breaks, priority and reserve areas for nature and landscape conservation and management, tourism, agriculture, raw materials protection zones and drinking water catchment areas, and areas suitable for wind farms.

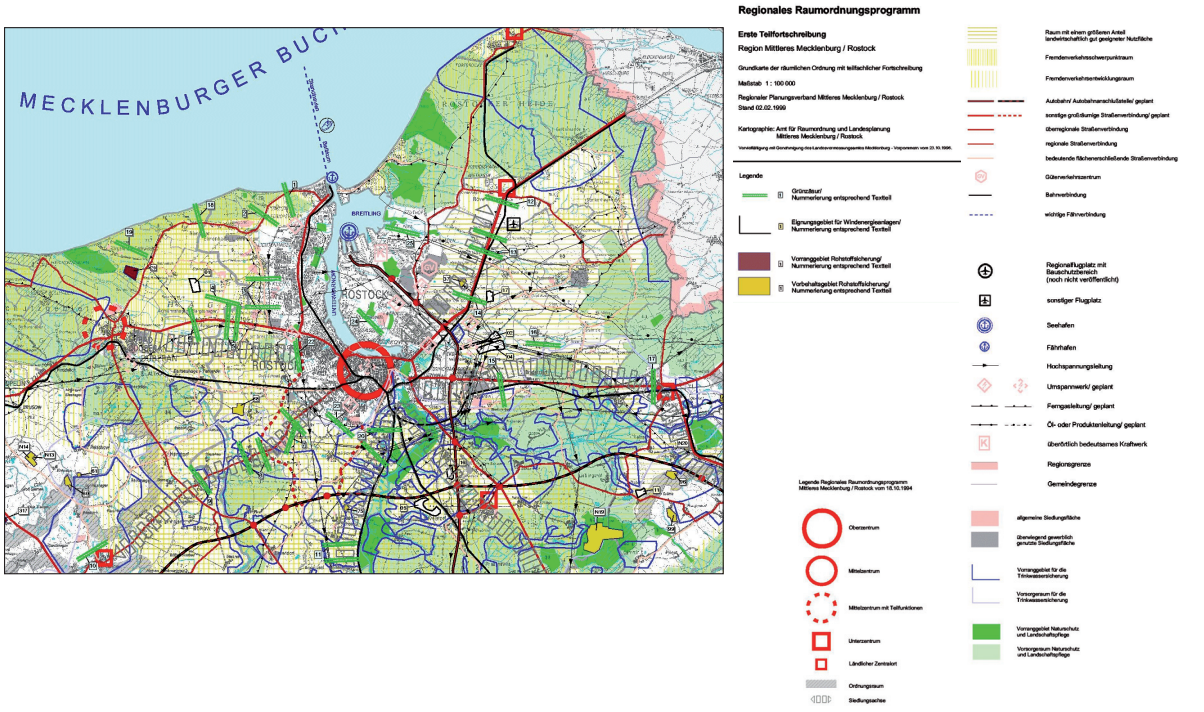
Process, duration, participation

- The spatial structure programme was put into force by the state government in October 1994.
- The first partial update of the programme came into force in February 1999.
- Multiple public-authority and public participation pursuant to Section 7 (2) and (3) of the State Planning Act.

Duration of validity

- The programme covers a period of between 10 and 15 years.

DEATAILS OF THE PLAN



CHARAKTERISTICS

Location of the area

The Central Mecklenburg/Rostock Planning Region is at the centre of the four planning regions in Mecklenburg-West Pomerania, comprising the counties Bad Doberan and Güstrow and the Hanseatic city of Rostock. The planning region includes the high-order centre Rostock, the middle-order centres Bad Doberan, Güstrow und Teterow, and the basic centres Bützow, Dummerstorf, Gnoien, Graal-Müritz, Krakow am See, Kröpelin, Kühlungsborn, Laage, Neubukow, Rerik, Sanitz, Satow, Schwaan, and Tessin. The region has an area of 3,600 square kilometres and a population of about 425,000 distributed across 128 communities (status 2006).

Initial situation

Increasing international and national competition, structural change in the East German economy, and the growing pressure on natural resources have generated the need for environmentally sound planning in and around settlement and economic centres. The urgently needed economic upturn is to be supported.

Particularities of the procedure and/or contents

The goals proposed in the first partial update of the programme have emerged from comprehensive external expert reports and intensive consultations, discussions, screenings, and weighing processes in the competent bodes of the regional planning association.
The Central Mecklenburg/Rostock Regional Spatial Structure Programme is currently being revised. The new programme, to be termed Regional Development Programme, is likely to come into force in 2008.

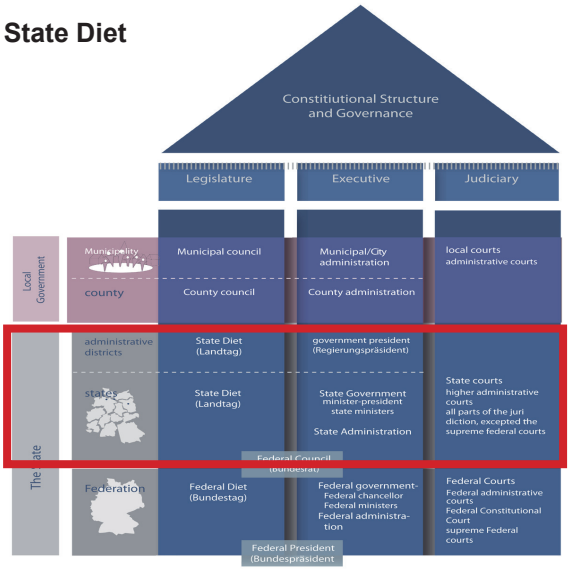
HINTS AND LINKS

www.rpv-mmr.de/Publikationen.7.0.html

5.2.4. State Spatial Development Programme Mecklenburg-Vorpommern

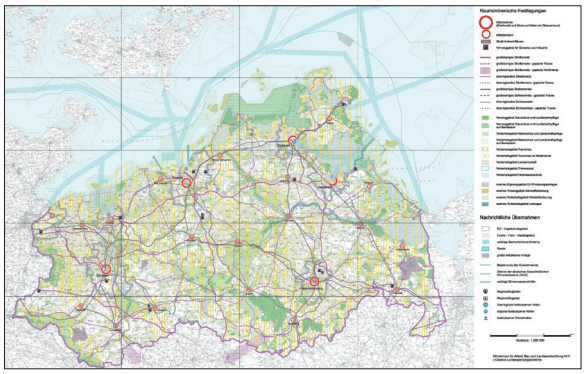
PLANNING LEVEL

State Diet



TYPE OF PLAN

State spatial development programme



FACTS

Legal basis

- Federal Spatial Planning Act (ROG) as amended on July 20th, 2004
- Mecklenburg-West Pomeranian State Spatial Planning Act (LPlG) as amended on May 5th, 1998

Competences

- The states establish the legal basis for spatial planning in their territory (state spatial planning) pursuant to Section 6 of the Federal Spatial Planning Act. According to Section 7 of the State Spatial Planning Act, the Mecklenburg-West Pomeranian State Spatial Development Programme is the responsibility of the highest state planning authority.

Binding force

- State government ordinance binding on planning bodies. The programme also constitutes a model addressing all public and private institutions, private initiatives, and calling for civic engagement.

Tasks and contents

- The State Spatial Development Programme is a cross-sectional and interdisciplinary, area-related framework plan for the sustainable development of the state of Mecklenburg-West Pomerania.
- Entrenchment of the guideline of spatial planning in twelve state development guidelines that set priorities. They are in the nature of guiding principles of spatial planning and are superordinate standards to be applied along with the principles under Section 2 of the Federal Spatial Planning Act and Section 2 of the State Planning Act.
- Binding programme provisions on overall development of the territory, settlement development, open space development, infrastructure development, and spatial planning in coastal waters.

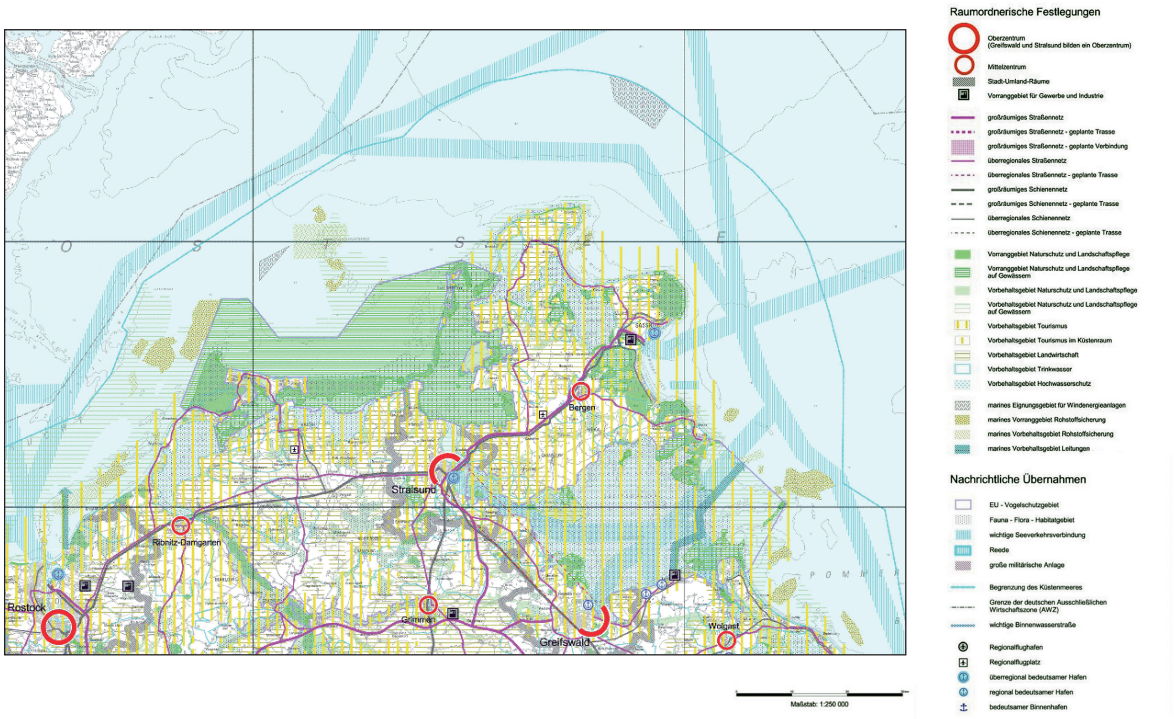
Process, duration, participation

- Multiple public-authority and public participation pursuant to Section 7 (2) and (3) of the State Planning Act.
- The ordinance came into force in May 2005. Thereupon the State Ordinance on the First Mecklenburg-West Pomeranian State Spatial Planning Programme of July 16th, 1993 became inoperative.

Duration of validity

- The programme covers the period up to 2020.

DEATAILS OF THE PLAN



CHARAKTERISTICS

Location of the area

The state of Mecklenburg-West Pomerania was formed in 1990 from the GDR districts Neubrandenburg, Rostock, and Schwerin. Since June 12th, 1994 it has been composed of six county-free cities and twelve counties with a total of 989 municipalities. The capital is Schwerin, and the state covers 23,174 square kilometres, 6.5 % of the total territory of Germany.

Initial situation

The general conditions for development of the state have changed considerably since the First State Spatial Planning Programme came into force. Growing links and interdependencies in the Baltic region, due especially to eastward enlargement of the European Union, require new spatial planning approaches to cooperation; the strong decline in the population has been taken into account in the new programme with respect to the central place system and goals for rural areas; there has also been considerable outmigration from cities and towns to surrounding areas.

Particularities of the procedure and/or contents

The new legal basis has produced two new procedural elements. Preparation of the new programme was accompanied by environmental assessment, and for the first time, not only public authorities but also the general public were able to participate in the preparation procedure.
The area covered by the state development plan was extended to include coastal waters (12 nautical mile zone) to provide early conflict management between the demands of new technologies (off-shore wind farms), the territorial requirements of tourism and nature conservation, sand and gravel extraction, and traditional interests like navigation, fisheries, and defence.

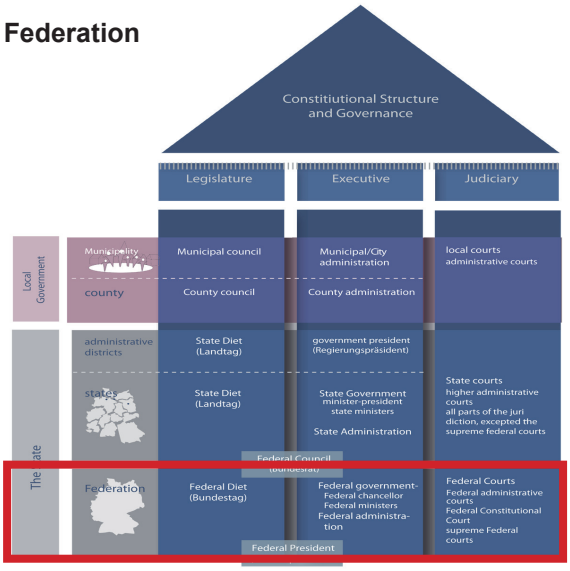
HINTS AND LINKS

www.am.mv-regierung.de/frame_public.htm

5.2.5. Guiding principle for spatial planning

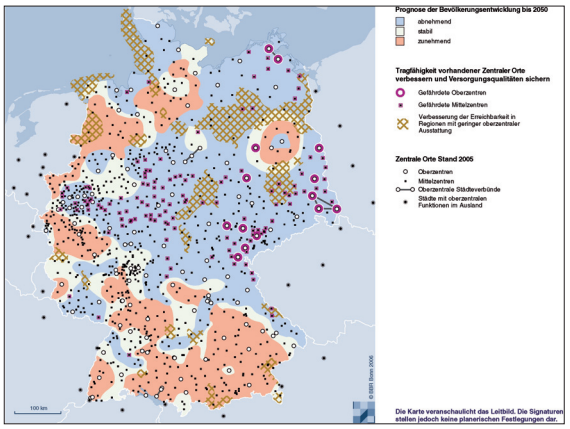
PLANNING LEVEL

Federation



TYPE OF PLAN

Securing public service provision



FACTS

Legal basis

- Federal Spatial Planning Act (ROG) of August 8th, 1997 (BGBl. I 2081), amended by Article 2b of the Act of June 25th, 2005 (BGBl. I 1746).

Competences

- Under Section 18 (1) of the Federal Spatial Planning Act (ROG), it is the task of federal spatial planning in collaboration with the states to work towards implementing the principles of spatial planning and to elaborate guiding principles for the spatial development the national territory.

Binding force

- Federal ordinance; the goals and principles of spatial planning are to be observed and taken into account by public agencies in spatially significant planning and measures.

Tasks and contents

- Guiding principles propose basic patterns and principles for spatial structure, taking due account of changing spatial conditions. They accordingly determine no planning arrangements.
- The guiding principles formulated include "securing the provision of essential public services," "growth and innovation," and "conserving resources, developing cultural landscapes." They describe the priority tasks of spatial planning for the coming years and act as a bridge between area-related policy goals, binding designations in spatial structure plans, and specific projects at the realisation level.

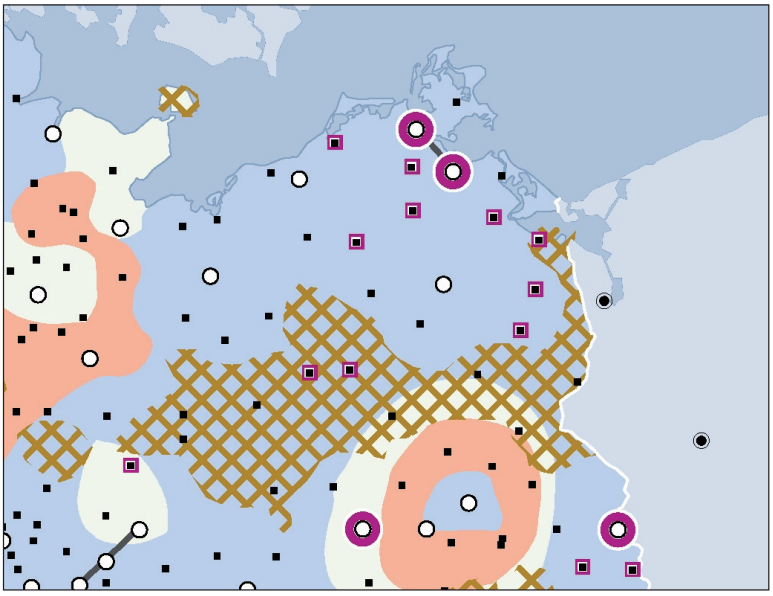
Process, duration, participation

- In 2003, the then Ministry of Transport, Building and Housing decided to elaborate a basis for new guiding principles for spatial planning.
- Three workshops and an expert survey between December 2004 and June 2005.
- Conference on "New Guiding Principles for Spatial Development" on September 12th, 2005 in Bonn.
- Decision to prepare the "Guiding Principles and Strategies for Spatial Development in Germany" in April 2005 by the Conference of Ministers of Spatial Planning (MKRO).
- Adoption of the new guiding principles by the MKRO on June 06th, 2006.

Duration of validity

- Guiding principles and strategies apply for an extensive and indeterminate period.

DEATAILS OF THE PLAN



CHARAKTERISTICS

Location of the area

Over and above the guiding ideas and principles provided by the Federal Spatial Planning Act, the guiding principles set out the objectives and strategies shared by the federal and state governments with regard to future spatial development. But they also explicitly emphasise the special situation and backlog requirements prevailing in the new states of East Germany.

Initial situation

Since adoption of the Spatial Planning Policy Guidelines in 1992, the general conditions for spatial planning policy have changed and developed. This finds expression in a series of major reform debates in Germany prompted by fundamental changes in the economy and society: globalisation, the transformation of government and political control, and demographic change.

Particularities of the procedure and/or contents

One of the main tasks of spatial development policy is to ensure socially acceptable and just standards in the provision of essential public services. This is particularly necessary in regions with a strongly ageing population and in sparsely settled areas with a declining population.
The guiding principle underpins the reorientation of spatial planning strategies, standards, and tools to ensure equivalent living conditions for the future in all parts of Germany. Two strategic approaches need to be pursued: review of the demand for equivalent living conditions and (re)definition of minimum standards in services and accessibility, as well as continued pursuit of approaches already being tested for flexible development of the central place concept.

HINTS AND LINKS

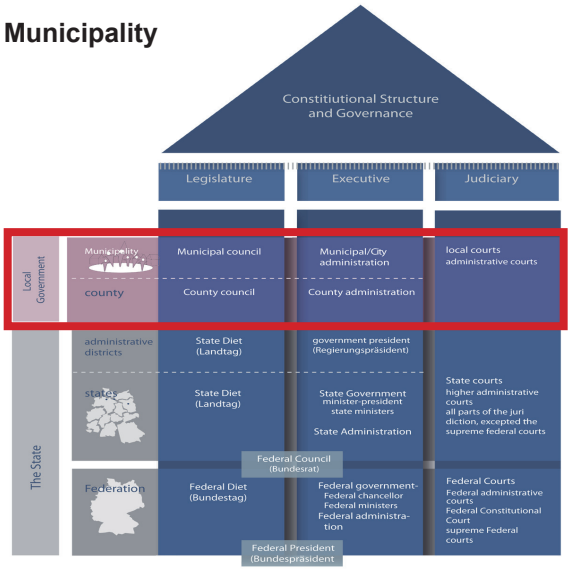
www.bbr.bund.de/cln_005/nn_22550/DE/ForschenBeraten/Raumordnung/RaumentwicklungDeutschland/LeitbilderKonzepte/LeitbilderAllgemein/LeitbilderAllgemein.html

5.3. Practical examples of Informal Planning

5.3.1. Master Plan HafenCity, Hamburg

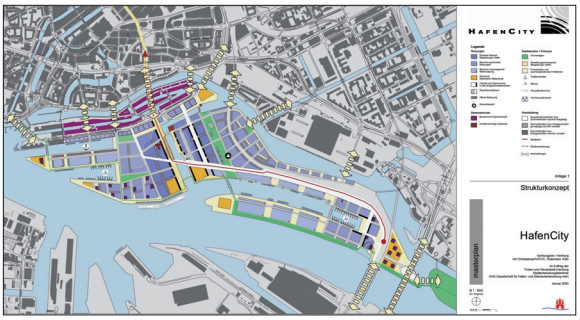
PLANNING LEVEL

Municipality



TYPE OF PLAN

Masterplan



FACTS

Legal basis

- There is no statutory basis for the master plan, since it is a informal plan. In accordance with Section 1 (6) eleven of the Federal Building Code (BauGB), however, urban land-use planning must nevertheless take it into account.

Competences

- The Senate and the Bürgerschaft (Hamburg state parliament) have adopted the objectives and structural concept of the master plan as a basis for development.

Binding force

- The informal planning instrument of the master plan is binding on public authorities.

Tasks and contents

- Extension of the city centre / conversion measure.
- Enhancement of the attractiveness of the city centre as a residential location.
- Improvement of locational potential, especially for the new media and the digital economy.
- Enhancement of the metropolitan function by exploiting specific locational qualities: international frame of reference, port and waterside setting, transport and communications perspective.
- Development of the area is to produce a dense physical structure with an average FSI of 2.5.
- Phased development of sub-areas, with development proceeding from West to East, forming a centre around Magdeburger Hafen.
- Utilisation of water areas: construction of the cruise terminal on Strandkai, construction of marinas in the Grasbrookhafen and Baakenhafen, traditional ship harbour in Sandtorhafen.

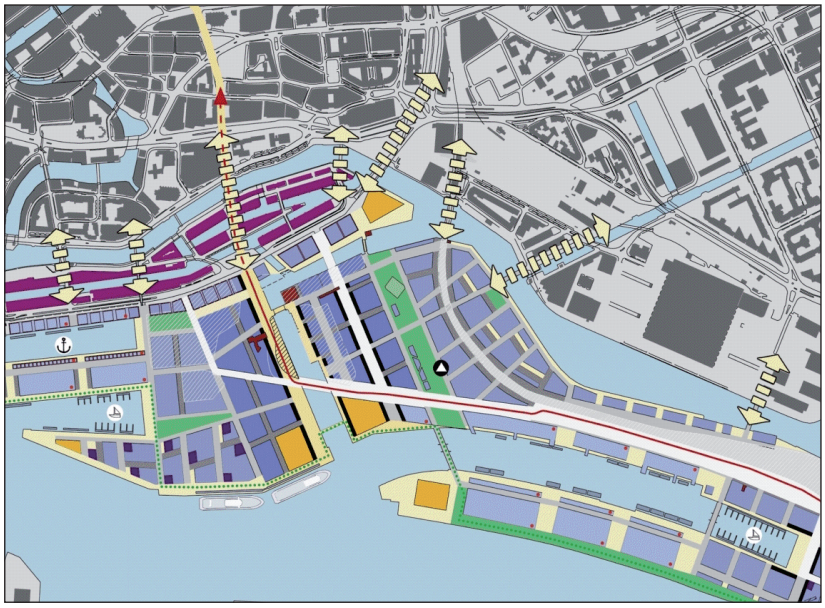
Process, duration, participatio/n

- First public presentation of the "HafenCity" vision by the former mayor of Hamburg, and decision by the Hamburg Bürgerschaft on development of the HafenCity in 1997.
- Adoption of the master plan conception by the Senate Commission for Urban Development, Environment, Economics, and Transport in December 1998.
- Urban design competition in summer/autumn 1998
- Bürgerschaft decision on the structural concept and objectives of the HafenCity master plan in 2/2000.

Duration of validity

- The master plan sets out the long-term urban planning and development aims for Hamburg.

DEATAILS OF THE PLAN





CHARAKTERISTICS

Location of the area

The western parts of the 155 ha planning area border on the Speicherstadt and thus on the Hamburg city centre. To the East it borders on the central market, from which it is separated by the Oberhafen. The entire area is situated north of the Norderelbe, being bound on the West by the Kaiserhöft and on the East by the Oberhafen Canal.

Initial situation

In accordance with a 1997 decision of the Hamburg Bürgerschaft, inner-city dockside areas are to be converted to extend Hamburg's city centre. The HafenCity project is due for completion in 2025.

Particularities of the procedure and/or contents

The master plan is a flexible concept that can be updated, and which is to be refined and particularised in the course of the planning and development process. It includes written objectives, a structural concept in plan form, a plan on the development concept and thematic plans on uses, transport, flood control and open spaces, as well as textual explanations. It also deals with the phased development of the area.
The master plan is the outcome of an interdisciplinary idea-generation process drawing on both the results of an international urban design competition, a public planning dialogue, and political decisions.

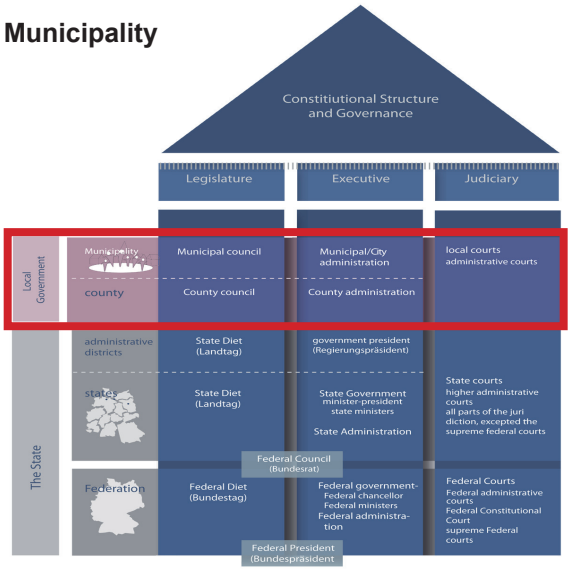
HINTS AND LINKS

GHS Gesellschaft für Hafen- und Standortentwicklung mbH (2000): HafenCity Hamburg – Der Masterplan
www.hafenCity.com

5.3.2. Further Development of the Cultural Forum, Berlin

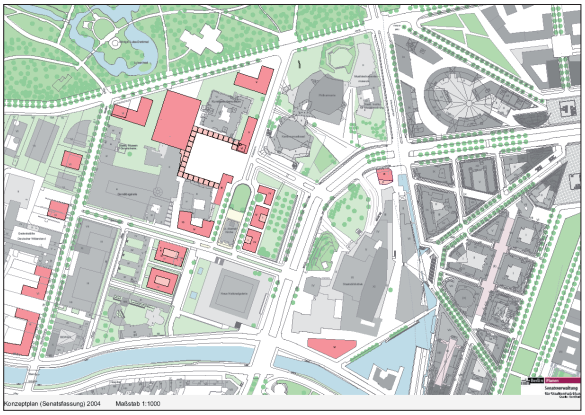
PLANNING LEVEL

Municipality



TYPE OF PLAN

Concept Plan



FACTS

Legal basis

- Act Implementing the Federal Building Code (AGBauGB) as amended on November 7th, 1999 (BFBl. 578); the Cultural Forum is an area of outstanding importance in urban policy. It was the intention of the Senate to establish the special importance of the site in accordance with Section 9 of the Act Implementing the Federal Building Code to provide legitimation for key elements and measures and in parliamentary and public discussion.

Competences

- After approval by the Council of Mayors, responsibility, also for ensuing binding urban land-use planning, passed to the Berlin Senate and House of Representatives.

Binding force

- Senate decision of 2004 on the further development of the Cultural Forum. This decision was not an "implementation regulation" but an invitation to discussion, to constructive debate on the further development of the Cultural Forum. It therefore called for a broad public discourse in the city on the development of the forum.

Tasks and contents

- For the further development of the Cultural Forum demanded by the Berlin House of Representa-tives, the plan laid down certain key aims: continued development of the Cultural Forum on the basis of Scharoun's 1964 "urban landscape" concept; creation of a framework of public spaces for the existing high-quality institutions and architecture; provision of a worthy setting for four architectural monuments; extensions to upgrade the three differently designed public spaces; preservation of sight lines between the New National Gallery and the Philharmonic Hall; pedestrian links with the Tiergarten and Potsdamer Platz.

Process, duration, participation

- Five public architecture debates together with the House of Representatives (June 2004 to March 2005).
- Exhibition from June 14th, 2004 to end of October 2004.
- Internet "Cultural Forum Online Dialogue."
- Planning workshop with all the groups involved (June 2004 to January 2005). The outcome was a draft master plan.

DETAILS



Aerial photo (view from north)

Aerial photo with montage



CHARAKTERISTICS

Location of the area

The Berlin Cultural Forum is located between the Landwehr Canal and Potsdamer Platz in the Tiergarten subdistrict of Berlin-Mitte, and is crossed by Potsdamer Straße. The architectural monuments include the Philharmonic Hall, the New National Gallery, the State Library, and St. Matthew's Church. The area is about 23 ha in size.

Initial situation

On December 12th, 2002, the Senate was called upon by the House of Representatives to submit a concept for the continued development of the Cultural Forum on the basis of the decisions of the House and Hans Scharoun's development vision.

Particularities of the procedure and/or contents

The further development of the project initiated in 1964 by Hans Scharoun has gone through many stages with several competitions, whose results were partially put into effect and just as often abandoned; the general setting has changed owing to abandonment of plans for a western ring road (1984), the fall of the Wall, and, finally, the redevelopment of Potsdamer Platz and Leipziger Platz behind the incomplete cultural forum.
The Senate's decision on further development proposed and implemented a broad public discourse in the city in the form of architecture debates, workshops, exhibitions, and Internet forums. After conclusion of the public dialogue, a master plan was produced and submitted to the Senate and House of Representatives for consideration.

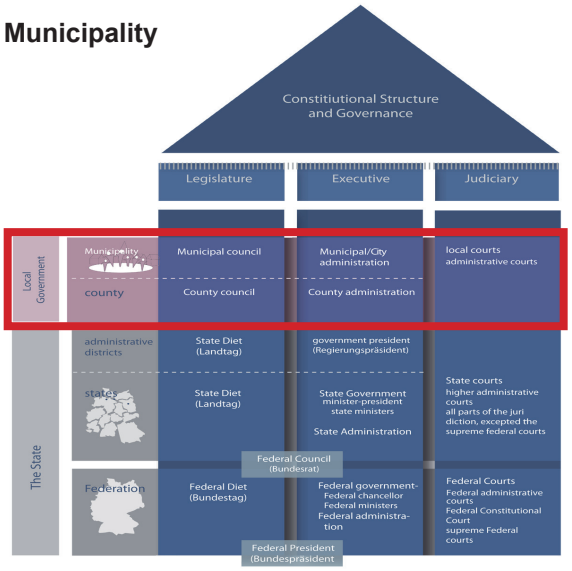
HINTS AND LINKS

www.stadtentwicklung.berlin.de/planen/staedtebau-projekte/kulturforum/index.shtml

5.3.3. Youth Project JaGal (Blinds-Gallery)

PLANNING LEVEL

Municipality



TYPE OF PLAN

Locational Plan



FACTS

Legal basis

- Basic Law for the Federal Republic of Germany of May 23rd, 1949 (BGBl. 1), last amended by statute on August 28th, 2006 (BGBl. I 2034).
- Administrative Agreement on the granting of financial aid by the federation to the states under Article 104a (4) of the Basic Law to promote urban development measures (VV-Städtebauförderung 2004) of June 21st, 2004/August 26th, 2004.

Competences

- The Senate Department of Urban Development approved the project in early 2005. It was initiated and carried out by the Helmholtzplatz neighbourhood management.

Binding force

- Projects under the joint federal/state government programme "Socially Integrative City" can be binding on aid recipients for up to ten years.

Tasks and contents

- The Blinds Gallery youth project procured surfaces in public spaces (blinds/building facades) for young sprayers, which were made available by property owners and business people for individual treatment.
- The multifaceted project attained a wide range of goals: upgrading of public space and visual quality of the area, an innovative approach to preventing illegal graffiti, encouraging identification by young people with the neighbourhood and a sense of responsibility for their art, and supporting a communication process between various groups of people.

Process, duration, participation

- Approval by the Senate in January 2005.
- Round of discussions with graffiti artists, business people, youth facilities, prevention commission-ers, and the police operational group Graffiti in Berlin (GIB).
- Public participation and information through a sprayer event "Sprühlings-Fest" (June 2005).
- Duration of validity
- The project was completed in mid-2006 and is seeking establishment on a permanent basis.

DETAILS



(pictures: Ellen Daßer)

CHARAKTERISTICS

Location of the area

The neighbourhood management area Helmholtzplatz is located in the Prenzlauer Berg subdistrict of Berlin-Pankow, and is bounded by Danziger Straße, Schönhauser Allee, Wichertstraße and Prenzlauer Allee. The neighbourhood is 84 ha in size and has a population of 20,000.

Initial situation

For some years now, the neighbourhood has been attracting young households. This residential area, and particularly rehabilitated housing stock, has suffered increasing facade defacement through graffiti and tags.

Particularities of the procedure and/or contents

The blinds and facades painted in the course of the project were interlinked by the "Blinds Gallery Path". A booklet explains the individual works and presents the participating businesses and the graffiti artists. The project brochure is intended mainly for visitors and tourists. The project offers those involved a publicity platform using a range of media, including a film documentation. A total of nine blind and façade pictures were created, distributed throughout the neighbourhood. Young people from the neighbourhood have been successfully activated, entering into active communication with various groups of people. The project has also succeeded in upgrading public space, and appreciation of these works of art has proved an inexpensive preventive measure against façade defacement.

HINTS AND LINKS

www.jagal.de
S.T.E.R.N. GmbH (2006): Jugendprojekt JaGal, Enddokumentation, Berlin

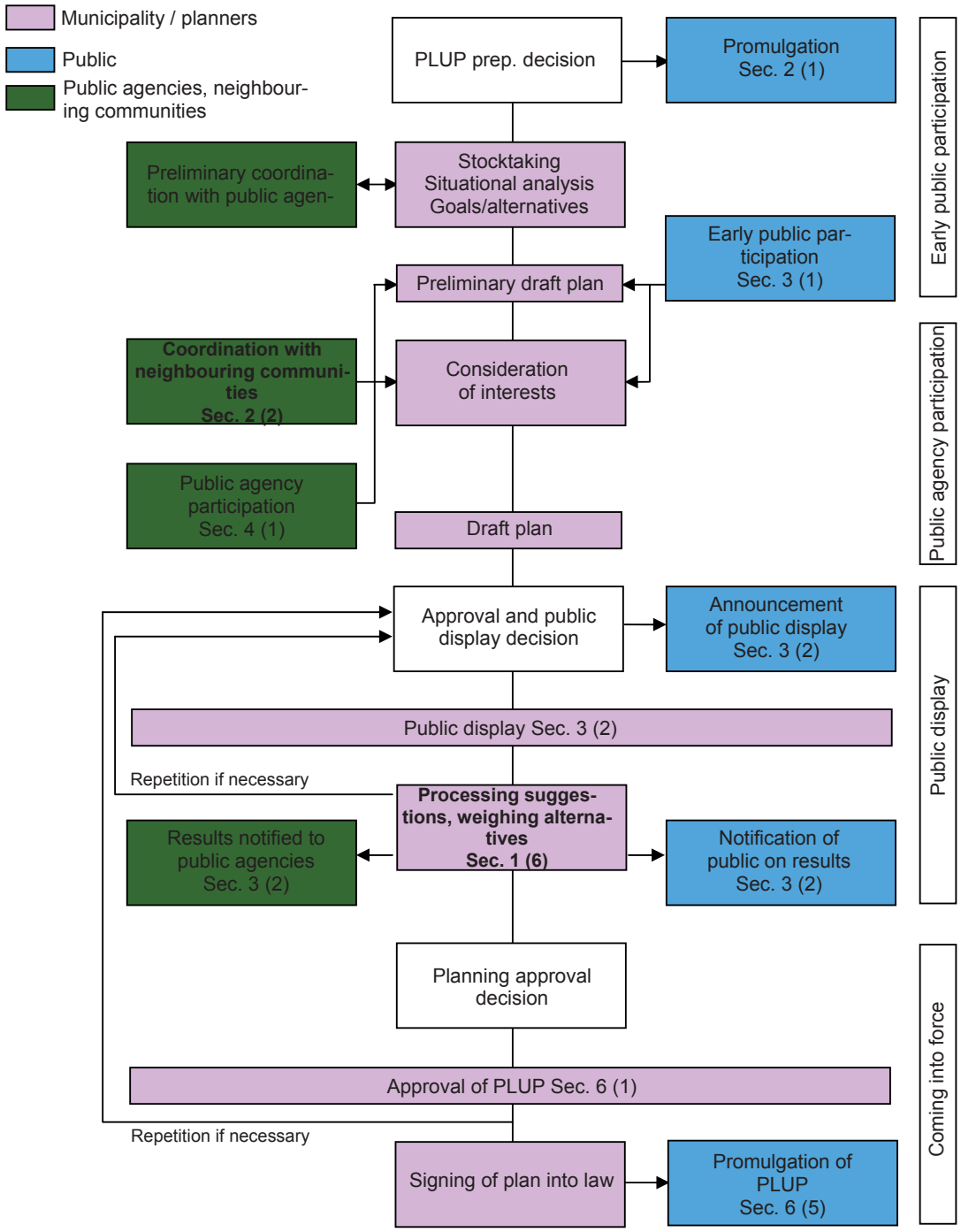
5.4. Practical examples of formal planning processes

5.4.1. Preparatory land-use plan

PREPARATORY LAND-USE PLANNING – PREPARATORY LAND-USE PLAN

The objective of urban land-use planning is to secure sustainable urban development in keeping with social, economic, and environmental demands in trust for coming generations, and to ensure socially equitable use of land for the general good of the community. The preparatory land-use plan (PLUP) outlines for the overall territory of the municipality the uses to which land is to be put to meet the expected needs of the municipality (Building Code Section 5).

PROCEDURE



FACTS

Legal Basis

- Federal Building Code (BauGB)
- Land Utilisation Ordinance (BauNVO)

Decision on preparation of the preparatory land-use plan

The municipality takes the decision to prepare a preparatory land-use plan (PLUP). This decision is publicly announced. The spatial planning authority is notified of the decision and requested for a statement of its views.

Early public participation

The preliminary draft of the plan is made available for public discussion. Public meetings are held and the plan is put on public display with an explanatory memorandum for a period of one month. The dates for these events are announced in advance. At the same time, public authorities and other public agencies are involved in the process.

Decision on public display of the draft plan

Suggestions received in the course of early participation proceedings are examined and the draft plan is prepared. The planning committee decides on how to take suggestions into account, approves the draft plan, and decides on public display.

Public display

Public display proceeds in a similar manner to early participation. During the display period, anyone is entitled to make suggestions or observations, and public authorities and other public agencies state their views.

Examination of suggestions

Suggestions from the public made in due time (within the period of public display) and the views stated by public authorities and other public agencies are examined and weighed against all other public and private interests. A draft resolution is prepared on how to deal with them (outcome of the weighing process). If the plan is altered or amended as a result of suggestions, it is once again put on public display.

Decision

The municipality submits a draft resolution on what account is to be taken of suggestions from the public and the comments made by public authorities and agencies. It decides on the weighing of interests and on the plan (planning approval decision). The public, public authorities and agencies are then notified about how their suggestions have been taken into account.

Approval

The preparatory land-use plan requires the approval of the superior administrative authority. The authority may impose conditions or except parts of the plan from approval.

Publication

Public notice is given of approval in the manner customary within the municipality. The preparatory land-use plan becomes effective from the date of public notice. Everyone can inspect it and obtain information about its content. Remarks on the described plan preparation procedure (procedural steps, dates) are to be entered in the operative preparatory land-use plan.

HINTS AND LINKS

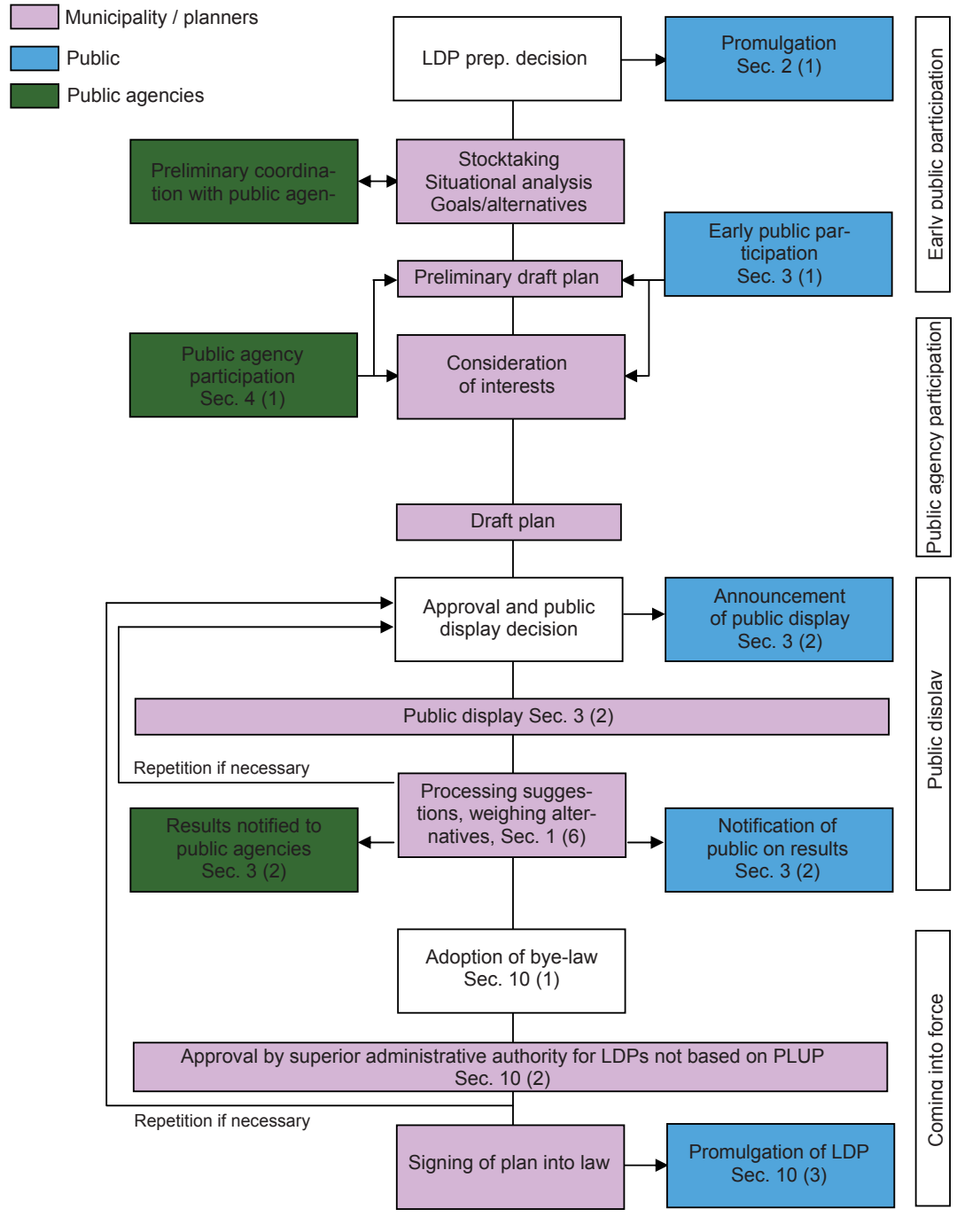
Federal Building Code (BauGB) as amended on September 23rd, 2004
Schmidt-Eichstaedt, G. (1998): Städtebaurecht, Einführung und Handbuch; Stuttgart/Berlin/Cologne

5.4.2. Binding land-use plan

BINDING LAND-USE PLANNING – BINDING LAND-USE PLAN

The objective of urban land-use planning is to secure sustainable urban development in keeping with social, economic, and environmental demands in trust for coming generations, and to ensure socially equitable use of land for the general good of the community. The binding land-use plan (BLP) sets out binding stipulations for urban structures (Federal Building Code, Section 8 (1)) for parts of the municipal territory (Federal Building Code, Section 9 (7)).

PROCEDURE



FACTS

Legal basis

- Federal Building Code (BauGB)
- Land Utilisation Ordinance (BauNVO)

Decision on preparation of the binding land-use plan

Preparation of a binding land-use plan is decided by the municipality. The decision is publicly announced. Binding land-use plans are developed on the basis of the preparatory land-use plan (PLUP). A preparatory plan is not required where a BLP is sufficient to organise urban development.

Early participation

The preliminary draft of the plan is made available for public discussion. Information on this draft is pro-vided verbally (e.g. at a public information evening) or in written form (e.g. by information leaflet), the public being invited to express their opinions and discuss the issue. The dates for such events are an-nounced in advance. At the same time, public authorities and other public agencies are approached to provide information on planning and set the investigative framework for the environmental report.

Decision on public display of the draft plan

Suggestions received in the course of early participation proceedings are examined and the draft plan is prepared. The planning committee decides on how to take suggestions into account, approves the draft plan, and decides on public display.

Public display

Public display proceeds in a similar manner to early participation. During the display period of one month, anyone is entitled to make suggestions or observations, and public authorities and other public agencies state their views.

Examination of suggestions

Suggestions from the public made in due time (within the period of public display) and the views stated by public authorities and other public agencies are examined and weighed against all other public and private interests. A draft resolution is prepared on how to deal with them (outcome of the weighing process). If the plan is altered or amended as a result of suggestions, it is once again put on public display.

Decision

The municipality submits a draft resolution on what account is to be taken of suggestions from the public and the comments made by public authorities and agencies. It decides on the weighing of interests and the plan in the form of a bye-law. The public, public authorities and agencies are then notified about how their suggestions have been taken into account.

Approval

The binding land-use plan has to be approved by the higher administrative authority if it has not been developed on the basis of the preparatory land-use plan (PLUP).

Publication

The bye-law on the binding land-use plan is published in the manner customary in the municipality. The binding land-use plan enters into force upon promulgation. Everyone can inspect it and obtain information about its content. Appended to the plan is a comprehensive explanatory memorandum providing information about how environmental interests and the results of public and public-authority participation have been taken into account.

HINTS AND LINKS

Federal Building Code (BauGB) as amended on September 23rd, 2004
Schmidt-Eichstaedt, G. (1998): Städtebaurecht, Einführung und Handbuch; Stuttgart/Berlin/Cologne

5.5. Practical examples of informal planning processes

5.5.1. Framework development plan

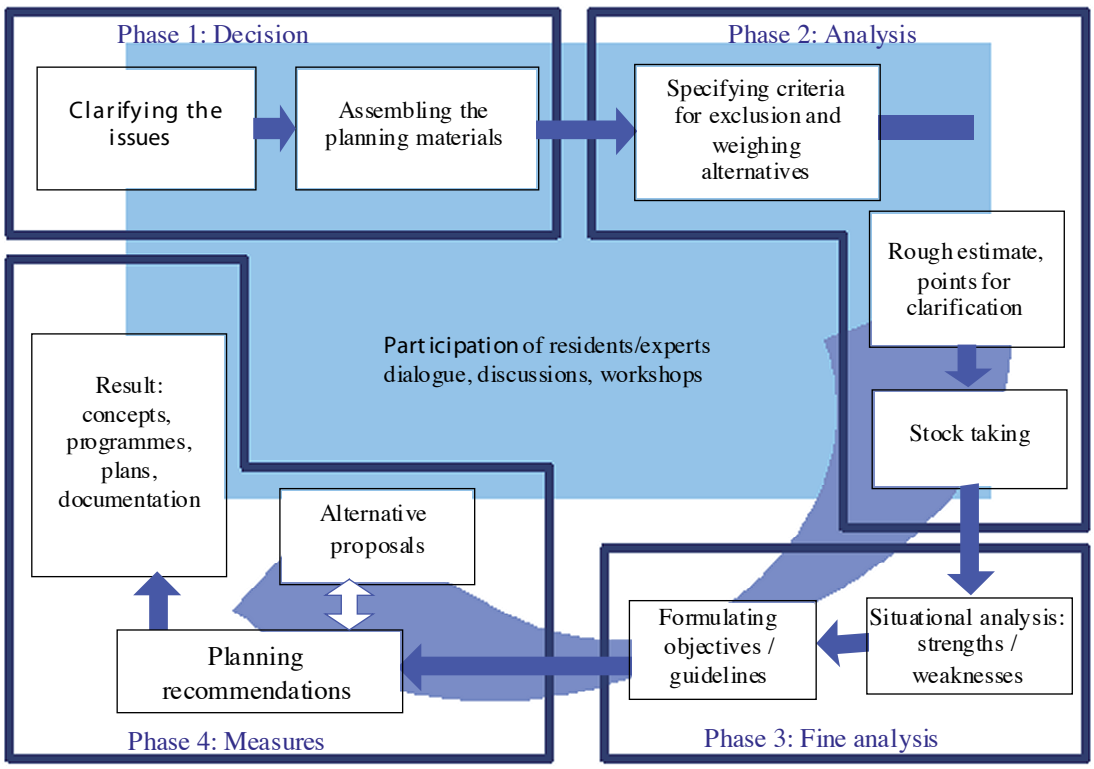
INFORMAL – FRAMEWORK DEVELOPMENT PLANNING

The term framework development planning covers all "informal" development planning by the local authority, planning recommendations for the urban structure and design of the entire municipal territory or parts and aspects thereof The framework development plan comes in scale between the preparatory land-use plan and the binding land-use plan. It is used particularly in core areas or as a tool in urban district development. It formulates specific development objectives for the ensuing binding land-use plans.

DIFFERENCES FROM STATUTORY URBAN LAND-USE PLANNING

Shorter time horizon: owing to the shorter time horizon (three to ten years) framework development plans can be adapted at short notice to local development needs.
No legally binding effect: although framework development plans merely provide guidance for local council decisions, they do gain a certain binding effect through being adopted by the local council.
No procedural rules: the lack of binding procedural arrangements offers the advantage that procedure, participation and planning contents can be adapted quite specifically to the planning task in hand.
Free definition of the planning area: the planning area can be adapted precisely to meet the requirements of the planning problem.
Variety of possible planning themes: the municipality has a free choice of planning themes.
Free choice of representation: the municipality can decide freely on how to present planning and can thus develop modes of presentation easily accessible to the public.
Control of input: depending on urgency, finance, and human resources, the mode of handling the task can be freely chosen.
Planning scale: the planning scale can be flexibly chosen and changed or supplemented as work proceeds.

PROCEDURE



FACTS

Legal basis

The framework development plan has no binding legal effect, but where the municipality commits itself, such a plan can, in combination with other instruments, become an effective tool, especially in assessing building projects without a binding land-use plan.

Clarifying the issues

As with all spatial planning, framework planning begins by defining the problem. As work proceeds, the issues are generally refined, new questions arise, which may require broader examination.

Taking stock

An important step in the process is to collect the material available. It includes maps and plans, statistics, lists of protected monuments, protection area ordinances, past local council decisions, projects of utilities and important applications and outline applications for building permission relating to the planning area. This material must generally be supplemented by thorough on-site inspection. This should take close account of the planning issues on hand.

Analysing the situation

Definition of the initial situation and assessment of the available material permits evaluation of the current position in the planning area. Locational qualities and development opportunities, spatial and substantive priorities emerge. It becomes clear where planning intervention is needed if development opportunities are to be optimally exploited and deficiencies remedied.

Formulating objectives/guidelines

As soon as the existing situation can be appraised with some certainty, it is generally useful to formulate and discuss objectives and guidelines for realising the proposed measures. Since this is the stage when the course is set for framework planning, far-reaching discussion involving the general public is advisable.

Proposals for alternative solutions

There is often more than one way to solve a planning problem, and it is not always clear from the outset which possibility is the best. In such cases, framework planning should work out alternatives and enumerate their advantages and disadvantages. This produces a broader and more committed discussion than if a purportedly "best" solution has already been decided on.

Planning recommendations

In any case, the outcome of framework planning is planning proposals and planning recommendations. They can be presented in a variety of forms. Proposals on the future distribution of land use, on priority measures, or the design of particular areas where far-reaching changes are envisaged can best be presented in the form of maps and plans.
Recommendations on procedures for implementing the proposed measures, on the necessary administrative activities and local council decisions, on obtaining funding, and on the timing and sequencing of measures are better put in writing, for instance, in the form of an action programme.

HINTS AND LINKS

Technical University Berlin, Institute for Urban and Regional Planning, material on lecture course "Land use and development planning," winter term 2002/2003

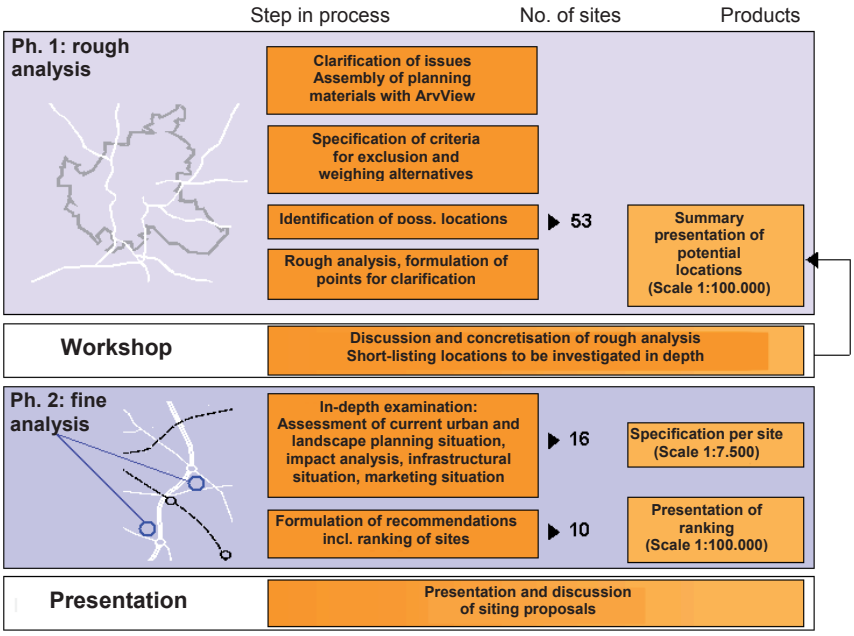
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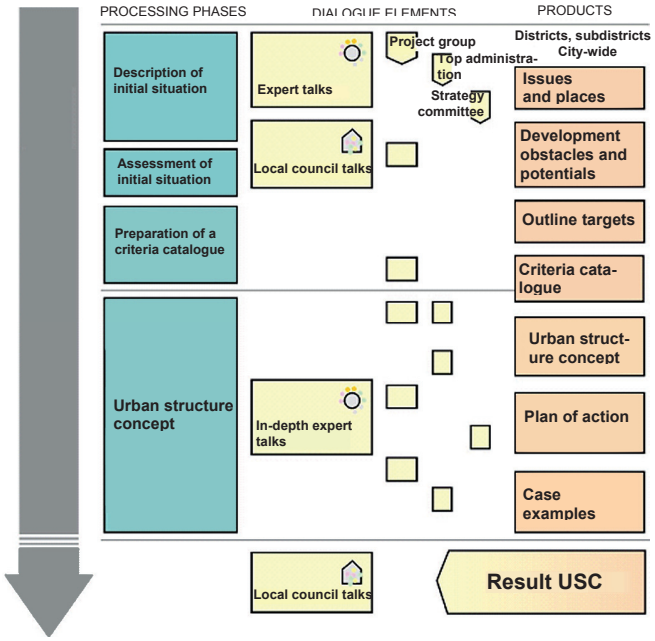
PROCEDURE

Example: Siting Analysis for Large-Scale Furniture Retailing in Hamburg



Example: Urban Structure Concept for Wolfsburg

- Content elaborated and coordinated in dialogue process
- Expert recommendations for implementation



FACTS

Legal Basis

The framework development plan has no binding legal effect, but where the municipality commits itself, such a plan can, in combination with other instruments, become an effective tool, especially in assessing building projects without a binding land-use plan.

Clarifying the Issues

As with all spatial planning, framework planning begins by defining the problem. As work proceeds, the issues are generally refined, new questions arise, which may require broader examination.

Taking Stock

An important step in the process is to collect the material available. It includes maps and plans, statistics, lists of protected monuments, protection area ordinances, past local council decisions, projects of utilities and important applications and outline applications for building permission relating to the planning area. This material must generally be supplemented by thorough on-site inspection. This should take close account of the planning issues on hand.

Analysing the situation

Definition of the initial situation and assessment of the available material permits evaluation of the current position in the planning area. Locational qualities and development opportunities, spatial and substantive priorities emerge. It becomes clear where planning intervention is needed if development opportunities are to be optimally exploited and deficiencies reduced.

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HINTS AND LINKS

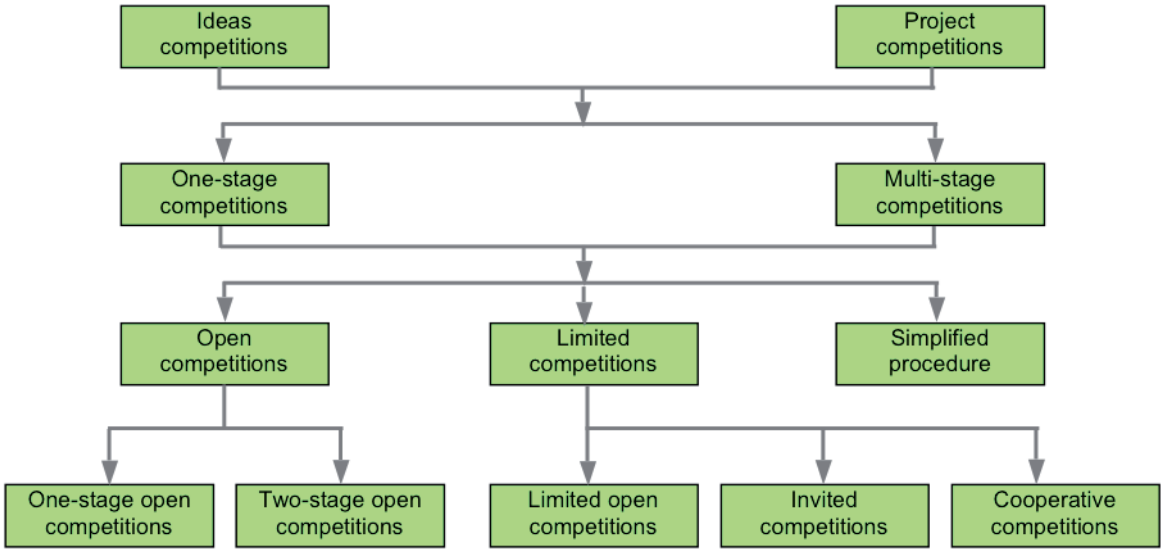
Technical University Berlin, Institute for Urban and Regional Planning, material on lecture course "Land use and development planning," winter term 2002/2003

5.5.3. Framework development plan

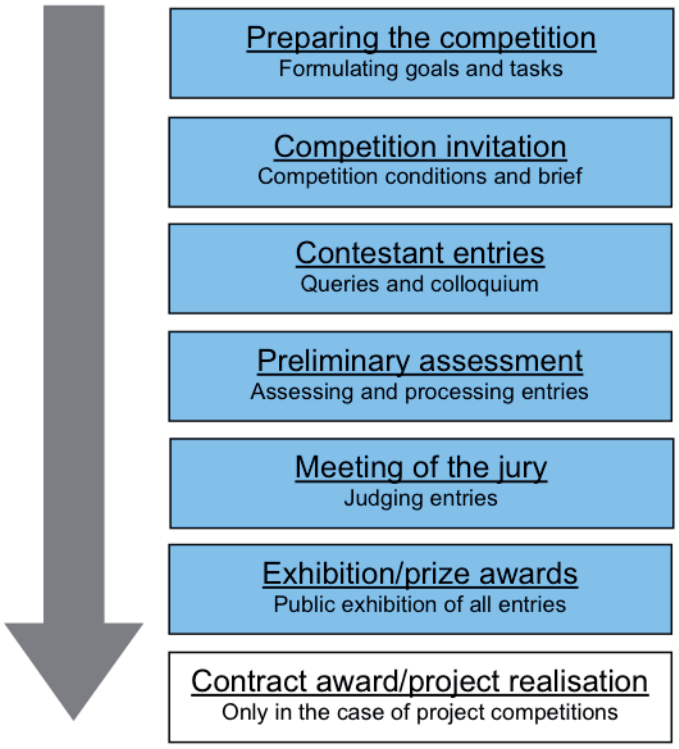
INFORMAL PROCEDURES – COMPETETIONS

Competitions are intended to develop good solutions for the given task by offering alternative proposals that do equal justice to the varying requirements, especially in design, cost effectiveness, functionality, energy efficiency, and the environment. Apart from producing solutions to set problems, a competition may also pursue the goal of promoting the quality of planning, construction, and design in general or for a particular field.

TYPES OF COMPETETIONS



PROCEDURE



FACTS

Legal Basis

The Federal Chamber of Architects has issued organisational guidelines for this informal procedure, the "Principles and Guidelines for Competitions in the Fields of Spatial Planning, Urban Development and Building" (GRW 1995). They are adopted by the states as is or in amended form as binding rules.

Preparing competitions

The first task is to formulate the planning objective and draw up the competition brief It must also be decided what type of competition is to be used. Once the brief has been drafted, it must be coordinated with those involved in the procedure. The preparatory phase includes appointing the jury, including representatives of all relevant disciplines, specialists, and other advisors.

Competition announcement

Part A of the competition materials lays down conditions, such as entry qualifications and area of admission, jury, prize money, and contract commitment. Part B sets out the competition brief An important stage is preliminary discussion among the judging panel to give the finishing touches to the competition invitation. The resulting document is the basis for registration of the competition. Promoters can be from either the public or private sector.

Contestants' procedure

Contestants are given a set period for producing their entry. To clarify any open points with regard to the competition brief, entrants can be given an opportunity within this period, but no later than completion of the first third of this phase, to submit queries or participate in a joint colloquium.

Preliminary assessment

Prior to the meeting of the jury, a preliminary examination is made of competition entries and of how the required data and facts have been handled. The prime concern is to determine whether formal competition requirements have been met. The assessment panel prepares a report for submission to the jury.

Meeting of the jury

With the advice of the assessment panel and experts, the jury decides independently on the anonymous competition entries. Entries are assessed and ranked, prizes and mentions are discussed, and a recommendation is made to the promoter. The meeting generally lasts one to two days and is held behind closed doors to obviate any extraneous influence.

Exhibition/prize awards

The exhibition of competition entries takes place no later than one month after awarding of the prizes, permitting public access to all entries for at least a week.

Contract award/project realisation

A contract is awarded only in the case of project competitions. Project competitions are organised when an optimum solution is sought for a problem. A key element in the "contract" between promoter and contestant is the so-called "contract commitment," in other words, the promoter promises to commission one of the prize winners with the planning of the project should it be realised.

HINTS AND LINKS

www.ak-berlin.de/publicity/ak/internet.nsf/tindex/de_wettbewerbe.htm

III. Glossary

Note: Some of the following glossary items are quoted (marked with an ∗) or a part of them is quoted (marked with an (∗)) from the existing bilingual handbooks of planning terms edited by Akademie für Raumforschung und Landesplanung. For details refer the source information of the term.

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Ad hoc/Special Purpose Association (of local authorities)

An ad hoc or special purpose association groups local authorities and local-authority associations in a body governed by public law for the joint performance of certain functions. Important fields of activity for special purpose associations are the construction and operation of water supply systems, sewage treatment plants, and waste disposal facilities, or the operation of public transport systems. The legal basis for such associations is state legislation pertaining to joint local-authority functions. Ad-hoc associations are the most frequent type of intermunicipal cooperation. A voluntarily established special-purpose association is termed a "Freiverband" or non-mandatory association, while a body set up by state law is termed a "Pflichtverband" or mandatory association.

→ intermunicipal cooperation

→ planning association

→ municipality, local authority

Zweckverband(*)

Ein Zweckverband ist ein Zusammenschluss von Gemeinden und Gemeindeverbänden zu einer Körperschaft des öffentlichen Rechts zum Zweck der gemeinsamen Erfüllung bestimmter Aufgaben. Wichtige Aufgabenfelder von Zweckverbänden sind z.B. Bau und Unterhaltung von Wasserversorgungs-, Abwasser- und Abfallwirtschaftsanlagen oder der Betrieb des Öffentlichen Nahverkehrs. Rechtsgrundlage sind die Gesetze der Länder über die kommunale Gemeinschaftsarbeit. Zweckverbände sind die häufigste Art interkommunaler Kooperation. Freiwillig gegründete Zweckverbände bezeichnet man auch als „Freiverband", durch Landesgesetz gegründete Verbände als „Pflichtverband". (nach ARL 2003)

→ Interkommunale Kooperation

→ Planungsverband

→ Gemeinde

Adaption and Planning Order

see tools for securing and implementing spatial

Anpassungs- und Planungsgebot

siehe Sicherungsinstrumente der Raumordnung und Landesplanung

Administrative Agreement

An administrative agreement is a contract between countries, the federation and the states, or between states. Administrative agreements do not require the approval of parliamentary assemblies and accordingly deal only with executive matters. In urban development promotion, for example, appropriate administrative agreements are concluded on federal/state programmes.

Treaties, by contrast, require parliamentary ratification, i.e. a treaty becomes part of federal and/or state law. In the international arena, treaties play an important role. Owing to the federal structure of the Germany and the legislative competence vested in the states of the federation, they can conclude treaties with one another.

→ federation, federal government

→ state

Verwaltungsvereinbarung

Eine Verwaltungsvereinbarung ist ein vertragliches Abkommen zwischen Staaten, dem Bund und den Ländern oder zwischen den Bundesländern untereinander. Verwaltungsvereinbarungen bedürfen keiner Legitimation der Parlamente und regeln somit nur Angelegenheiten der Exekutive. Bei der Städtebauförderung beispielsweise werden zu den Bund-Länder-Programmen entsprechende Verwaltungsvereinbarungen geschlossen.

Im Gegensatz dazu müssen Staatsverträge von den jeweiligen Parlamenten ratifiziert werden, d.h. der Staatsvertrag wird in das Bundes- bzw. Landesrecht übernommen. Staatsverträge haben auf internationaler Ebene große Bedeutung. Die Bundesländer können aufgrund des föderalen Aufbaus der Bundesrepublik Deutschland und ihrer eigenen Gesetzgebungskompetenz ebenfalls Staatsverträge untereinander abschließen. (nach www.ratgeber-recht.de)

→ Bund

→ Bundesländer

Administrative Regulations

see ordinance

Verwaltungsvorschrift

siehe Verordnung, Rechtsverordnung

Advisory Council on Spatial Planning

Under the Spatial Planning Act, an Advisory Council on Spatial Planning advises the competent federal minister on issues touching the fundamental principles of spatial planning. By appointment of the Federal Ministry for Regional Planning, Building and Urban Development, in consultation with the competent local authority associations, the council is made up of experts from the fields of science, regional planning at the state level, urban development, trade and industry, agriculture and forestry, protection of nature and landscape conservation, from employers' and employees' associations as well as from sports federations, along with local authority representatives.

→ Federal Spatial Planning Act

→ spatial planning

Beirat für Raumordnung*

Gemäß dem Raumordnungsgesetz ist bei dem für die Raumordnung zuständigen Bundesminister ein Beirat zu bilden. Er hat die Aufgabe, ihn in Grundsatzfragen der Raumordnung zu beraten. Der Bundesminister beruft in den Beirat im Benehmen mit den zuständigen Spitzenverbänden neben Vertretern der kommunalen Selbstverwaltung Sachverständige insbesondere aus den Bereichen der Wissenschaft, der Landesplanung, des Städtebaus, der Wirtschaft, der Land- und Forstwirtschaft, des Naturschutzes und der Landschaftspflege, der Arbeitgeber, der Arbeitnehmer und des Sports. (ARL 2003)

→ Raumordnungsgesetz

→ Raumordnung

Agglomeration, Conurbation, Metropolitan Area

An (urban) agglomeration (largely synonymous with conurbation, metropolitan area) is a concentration of settlements consisting of interlinked and interdependent communities distinguished from surrounding areas by greater settlement density and a higher proportion of built development. As a rule, agglomerations form around one or more core cities surrounded by a heavily built-up inner rings of suburbs and geographically more extensive, partly rural catchment areas. The core or central city with the suburban belt is referred to as an urban region. Major cities with international status and their extensive catchment areas are termed metropolitan regions.

With a high concentration of housing and workplaces, urban agglomerations drive economic development and are loci of cultural life. They are accordingly important for the country as a whole.

In terms of spatial category, agglomerations or conurbations are the type of area with the highest use density, being the opposite pole to sparsely population rural areas.

Communication axes between agglomerations, which partly traverse rural areas, are termed corridors.

→ municipality, local authority

→ catchment area

Agglomeration, Ballungsraum, Verdichtungsgebiet

Unter einer Agglomeration (weitgehend synonym auch: Verdichtungsraum, Ballungsraum) versteht man eine aus mehreren, wechselseitig verflochtenen Gemeinden bestehende Konzentration von Siedlungen, die sich gegenüber ihrer Umgebung durch eine höhere Siedlungsdichte und einen höheren Siedlungsflächenanteil auszeichnet. Im Regelfall gruppiert sich eine Agglomeration um eine oder mehrere Kernstädte, die von einem engeren, dicht bebauten suburbanen Vorortgürtel sowie einem geographisch weitläufigeren, teilweise ländlich geprägten Einzugsgebiet umgeben sind. Den Bereich aus Kernstadt und Vorortgürtel bezeichnet man auch als Stadtregion, international bedeutende Großstädte und ihr weitläufiges Einzugsgebiet bilden die Metropolregionen.

Die Agglomerationen sind als Konzentrationen von Wohn- und Arbeitsfunktionen Motoren der wirtschaftlichen Entwicklung und Schauplätze des kulturellen Lebens und somit für das ganze Land von Bedeutung.

Als Raumkategorie bilden Agglomerations- oder Verdichtungsräume den Raumtyp mit der höchsten Nutzungsdichte und bilden den Gegenpol zu den dünn besiedelten Ländlichen Räumen.

→ urban region
→ metropolitan region
→ spatial category

Die sich teilweise durch den Ländlichen Raum erstreckenden Verbindungsachsen zwischen den Agglomerationen nennt man Korridore.

→ Gemeinde
→ Verflechtungsgebiet, Einzugsgebiet
→ Stadtregion
→ Metropolregion
→ Raumkategorie

Agricultural Structure Development Plan

The agricultural structure development plan is a tool for developing efficient and adaptable agriculture and a basis on which to coordinate projects for maintaining the efficient functioning of rural areas and the villages they contain. Agricultural structure development plans should

- identify areas of conflict, scope for future development, and needs for action as regards agricultural structure and rural areas;
- develop area-specific visions and/or land-use concepts for the plan area and
- propose strategies for action and measures suitable for implementation.

Agricultural structure development planning is financed under the joint federal-state programme "Improvement of Agrarian Structure and Coastal Preservation." The level of funding depends on the size of the area concerned.

→ joint task/responsibility
→ realignment and consolidation of agricultural land holdings

Agrarstrukturelle Entwicklungsplanung*

Agrarstrukturelle Entwicklungsplanungen sind Instrumente zum Aufbau einer leistungsfähigen, vielseitig strukturierten Landwirtschaft und zugleich auch Grundlage für die Koordination von Vorhaben zur Erhaltung der Funktionsfähigkeit ländlicher Räume und ihrer Dörfer. Agrarstrukturelle Entwicklungsplanungen haben

- Konfliktbereiche, Entwicklungsmöglichkeiten und Entscheidungsbedarf in der Agrarstruktur sowie in ländlichen Räumen aufzuzeigen;
- gebietsspezifische Leitbilder und/oder Landnutzungskonzeptionen für den Planungsraum zu entwickeln sowie
- Handlungskonzepte und umsetzbare Maßnahmen vorzuschlagen.

Agrarstrukturelle Entwicklungsplanungen werden durch Zuschüsse aus der Bund-Länder Gemeinschaftsaufgabe „Verbesserung der Agrarstruktur und des Küstenschutzes" gefördert. Die Höhe der Förderung ist abhängig von der Größe des Untersuchungsgebietes. (ARL 2001c)

→ Gemeinschaftsaufgabe
→ Flurbereinigung

Assignment of Functions (in spatial planning)

Tasks assigned specifically to individual municipalities or regions by state spatial planning are referred to as functions. The aim is the functional/structural (or spatial/functional) division of responsibilities and labour among component territorial entities. Responsibilities are distributed in this fashion in the conviction that the component entities of a given territory are particularly suited for handling one or more of the functions in question. Each territorial entity will thus develop in a way that maximises the potential it offers.

The key functions associated with municipalities include:

- the central place function

Funktionszuweisungen in der Raumordnung und Landesplanung*

Als Funktionen werden die spezifischen Aufgaben bezeichnet, die einzelnen Gemeinden oder Teilräumen im Rahmen des landesplanerischen Zielsystems zugewiesen werden. Ziel des landesplanerischen Zielsystems ist es, eine funktionale und strukturelle Aufgaben- bzw. Arbeitsteilung (oder räumlich-funktionale Aufgaben-/Arbeitsteilung) zwischen den verschiedenen Teilräumen des Gesamtraums zu erreichen. Der raumordnerischen Konzeption der räumlich-funktionalen Aufgabenteilung liegt die Idee zugrunde, dass die verschiedenen Teilräume eines Gesamtraumes für eine oder mehrere Funktionen unterschiedlich geeignet sind. Jeder Teilraum soll demnach gemäß seiner Eignung bestmöglich entwickelt werden.

- tourism
- commerce and industry
- services
- housing
- agriculture

Major regional functions include:
- nature conservation and landscape management
- agriculture
- forestry
- water management
- clean air and climate
- recreation
- raw materials

Municipal and regional functions can overlap and have priority status. Comprehensive spatial planning and state spatial planning seek to ensure the broad spatial organisation of basic functions, taking all functions into equal account.

Under the Federal Spatial Planning Act (Section 7 (4), spatial structure plans may designate functions of a spatial character as priority areas, reserve areas, and/or as suitable areas for development.

→ state spatial planning

→ spatial structure plan

→ suitable area for development

Gemeindebezogene Funktionen sind insbesondere:
- zentralörtliche Funktion
- Fremdenverkehrsfunktion
- Industrie- und Gewerbefunktion
- Dienstleistungsfunktion
- Wohnfunktion
- Agrarfunktion.

Raumbezogene Funktionen sind insbesondere:
- Naturschutz und Landschaftspflege
- Landwirtschaft
- Forstwirtschaft
- Wasserhaushalt
- Luftregeneration und Klima
- Erholung
- Rohstoffsicherung.

Die Funktionen in den Gemeinden oder Teilräumen können sich überlagern und als Vorrangfunktionen ausgestaltet sein. Raumordnung und Landesplanung versuchen unter gleichberechtigter Berücksichtigung aller Funktionen eine umfassende Gesamtorganisation der Grundfunktionen in räumlicher Hinsicht vorzunehmen.

Nach dem ROG (§ 7 Abs. 4) können raumbezogene Funktionen in den Raumordnungsplänen als Vorranggebiete, Vorbehaltsgebiete und/oder Eignungsgebiete ausgewiesen werden. (ARL 2001c)

→ Landesplanung

→ Raumordnungsplan

→ Eignungsgebiet

Association of Cities and Surrounding Regions

see intermunicipal cooperation, regional cooperation

Stadt-Umland-Verband

siehe Interkommunale Zusammenarbeit, regionale Kooperation

Associations of Local Authorities

Associations of local authorities in Germany are voluntary groupings of territorial authorities created for the purpose of representing common interests. The following such umbrella organisations exist:
- the Deutsche Städtetag (German Association of Cities and Towns) for larger cities;
- The Deutsche Landkreistag (German County Association) and
- The Deutsche Städt- und Gemeindebund (German Association of Towns and Municipalities), for smaller towns and municipalities.

→ territorial authority

→ city, town

→ county

→ municipality, local authority

Kommunale Spitzenverbände*

Die kommunalen Spitzenverbände sind freiwillige Zusammenschlüsse von kommunalen Gebietskörperschaften zum Zweck der gemeinschaftlichen Interessenvertretung. Es gibt folgende Verbände:
- der Deutsche Städtetag als Verband der größeren Städte,
- der Deutsche Landkreistag als Verband der Landkreise und
- der Deutsche Städte- und Gemeindebund als Verband der kleineren Städte und Gemeinden. (ARL 2003)

→ Gebietskörperschaft

→ Stadt

→ Landkreis

→ Gemeinde

Axis

Important elements in spatial planning, axes are constituted by a concentration of transport and supply routes (linear infrastructure) and a relatively close succession of development centres and central places. Depending on physical features and functions, a distinction is made between communications axes (supralocal axes) and settlement axes.

Communications axes connect differently ranking central places and offer locational advantages at transport interchanges or nodes. Supralocal axes are national or European communication axes.

Settlement axes are axes in agglomerations formed by a close succession of settlements along the routes of existing or planned public-transport services. They do not necessarily form an unbroken ribbon of development but can be separated by open spaces. Spatial planning attempts to concentrate development along settlement axes to exploit existing public transport services more effectively and to preserve open spaces between axes.

→ central place system

→ elements of spatial planning

→ spatial planning

Achse*

Achsen sind Planungselemente der Raumordnung, die durch eine Bündelung von Verkehrs- und Versorgungssträngen (Bandinfrastruktur) und eine relativ dichte Folge von Siedlungskonzentrationen und zentraler Orte gekennzeichnet sind. Je nach Ausprägung und Aufgabe werden Verbindungsachsen (großräumig bedeutsame Achsen) und Siedlungsachsen unterschieden.

Verbindungsachsen sind Achsen, die durch Verkehrsbeziehungen zwischen zentralen Orten verschiedener Stufen gekennzeichnet sind und insbesondere in ihren Schnittpunkten Standortvorteile bieten. Großräumig bedeutsame Achsen sind Verbindungsachsen im Bundesgebiet oder im europäischen Raum.

Siedlungsachsen sind Achsen in Verdichtungsräumen, die durch eine dichte Folge von Siedlungen im Verlauf vorhandener oder geplanter Strecken des öffentlichen Nahverkehrs gekennzeichnet sind. Sie müssen kein ununterbrochenes Siedlungsband darstellen, sondern können durch Freiräume gegliedert sein. Die Raumordnung versucht, die Siedlungstätigkeit auf die Siedlungsachsen zu konzentrieren, um das dort vorhandene Nahverkehrsangebot effektiver zu nutzen, während die Achsenzwischenräume tendenziell als Freiflächen zu sichern sind. (nach ARL 2003; Stadt Gütersloh o.J.)

→ Zentrale Orte System

→ Planungselemente der Raumordnung und Landesplanung

→ Raumordnung

Binding Land-Use Plan

The binding land-use plan lays down legally binding rules for the development and organisation of sections of the municipal territory. It is developed on the basis of the preparatory land-use plan, but, unlike the latter, it creates direct rights and duties with regard to the utilisation of the sites within its purview. It can determine the category of use and degree of building coverage, type of development (open or closed), and lot coverage. It can also earmark sites for mitigation measures to offset intrusions, as well as sites for ancillary structures such as parking space and garages, vehicular and pedestrian infrastructure, and green spaces. Pursuant to the Land Utilisation Ordinance, the binding land-use plan can categorize land-use areas (for example as purely residential areas, general residential areas, mixed use areas, commercial areas, industrial areas).

The degree of building coverage can be determined by setting the plot ratio, floor-space index, cubing ratio, height of structures, and number of full sto-

Bebauungsplan(*)

Der Bebauungsplan (B-Plan) enthält die rechtsverbindlichen Festsetzungen für die städtebauliche Entwicklung und Ordnung für Teile des Gemeindegebietes. Er ist aus dem Flächennutzungsplan zu entwickeln, jedoch begründet er anders als dieser unmittelbar Rechte und Pflichten, die die Nutzung der Grundstücke in seinem Geltungsbereich betreffen. Festgesetzt werden können im Bebauungsplan insbesondere die Art und das Maß der baulichen Nutzung, die Bauweise (offen oder geschlossen), die überbaubare Grundstücksfläche, Flächen und Maßnahmen zum Ausgleich von Eingriffen, Flächen für Nebenanlagen, wie z.B. Flächen für Stellplätze und Garagen, Verkehrsflächen und Grünflächen. Als Art der baulichen Nutzung können im Bebauungsplan nach der Baunutzungsverordnung (BauNVO) Baugebiete (z.B. reine Wohngebiete, allgemeine Wohngebiete, Mischgebiete, Gewerbegebiete, Industriegebiete) festgesetzt werden.

reys. Permissible lot coverage can be set by means of building lines, set-back lines, or coverage depths.

Binding land-use plans also serve as the basis for other urban development activities provided for in the Federal Building Code, such as land reallocation, expropriation, and improvement.

Plan preparation procedure is regulated in detail by the Federal Building Code. The binding land-use plan is adapted as a bye-law by the local council; it is therefore generally binding, also on private individuals. The binding land-use plan consists of a plan with legend, textual designations and information for the record, as well as an explanatory memorandum, including an environmental report.

A special form of binding urban land-use planning is the project-based binding land-use plan. Such plans permit the municipality to grant permission for projects where, on the basis of a project and infrastructure plan agreed with the municipality, the project developer undertakes to complete the plan within a certain delay and fully or partly assumes planning and land improvement costs.

→ urban land-use planning, urban land-use plan

→ preparatory land-use plan

→ Land Utilisation Ordinance

→ plan preparation procedure and public participation procedure

→ bye-law

Das Maß der baulichen Nutzung kann durch die Festsetzung von Grundflächenzahl, Geschossflächenzahl, Baumassenzahl, der Höhe der baulichen Anlagen und der Zahl der Vollgeschosse bestimmt werden. Die überbaubare Grundstücksfläche kann durch Baulinien, Baugrenzen oder Bebauungstiefen festgesetzt werden.

Der Bebauungsplan bildet darüber hinaus die Grundlage für weitere Maßnahmen, die dem Vollzug des Baugesetzbuches dienen, wie z.B. Maßnahmen zur Bodenordnung, Enteignung oder Erschließung.

Die Einzelheiten des Aufstellungsverfahrens sind im Baugesetzbuch geregelt. Der Bebauungsplan ist von der Gemeinde per Ratsbeschluss als Satzung zu verabschieden; der Satzungscharakter bewirkt eine Verbindlichkeit gegenüber jedermann, d.h. auch die Bürger sind an die Planinhalte gebunden. Der Bebauungsplan besteht aus einer Planzeichnung mit Legende, textlichen Festsetzungen und nachrichtlichen Übernahmen sowie einer Begründung, deren Bestandteil ein Umweltbericht ist.

Eine Sonderform der verbindlichen Bauleitplanung ist der vorhabenbezogene Bebauungsplan. Mit diesem Plan kann die Gemeinde die Zulässigkeit von Vorhaben bestimmen, wenn der Vorhabenträger auf Grundlage eines mit der Gemeinde abgestimmten Vorhaben- und Erschließungsplans die Durchführung des Plans innerhalb einer bestimmten Frist übernimmt und die Planungs- und Erschließungskosten ganz oder teilweise trägt. (nach ARL 2003)

→ Bauleitplanung, Bauleitplan

→ Flächennutzungsplan

→ Baunutzungsverordnung

→ Aufstellungs- und Beteiligungsverfahren

→ Satzung

Biosphere Reserve

A biosphere reserve is a large, suitably protected area forming part of a global network of similar conservation areas. It serves to maintain the natural capacity of eco-systems to develop and for nature conservation research, and is integrated into an international system of environmental auditing. As a rule, biosphere reserves are zoned according to the intensity of human intrusion. A core zone is particularly strictly protected against harmful impacts, and a transitional zone contains areas given over to traditional uses, trial areas for experimental research, and areas for regeneration. Since 1976 these reserves have been recognised under the UNESCO “Man and the Biosphere” programme. There is now an international network of such inland and coastal reserves, including just over 500 in 102 countries (status October 2005). In Germany 14 biosphere reserves have

Biosphärenreservat(*)

Ein Biosphärenreservat ist ein in geeigneter Weise geschütztes großflächiges Gebiet, das in ein globales Netz gleichartiger Schutzgebiete eingebunden ist. Es dient der Erhaltung der natürlichen Entwicklungsfähigkeit der zu schützenden Ökosysteme sowie Zwecken der Naturschutzforschung und ist in ein internationales System der Umweltbeobachtung eingebunden. In der Regel erfolgt eine Zonierung nach der Intensität der menschlichen Eingriffe mit einer streng geschützten Kernzone, einer Pufferzone zur Abschirmung der Kernzone vor schädigenden Einflüssen und einem Übergangsgebiet mit traditionellen Nutzflächen, Testflächen für experimentelle Forschung und Sanierungsflächen. Seit 1976 werden im Rahmen des UNESCO-Programms „Der Mensch und die Biosphäre“ (MAB) diese großflächigen Schutzgebiete anerkannt. Es ist mittlerweile ein

been established pursuant to the Federal Nature Conservation Act and recognised by UNESCO.

→ protected status

→ environmental policy

internationales Netz aus solchen Binnen- und Küstenlandschaften entstanden, das knapp 500 Gebiete in 102 Staaten (Stand: Oktober 2005) umfasst. In Deutschland wurden nach dem Bundesnaturschutzgesetz 14 Biosphärenreservate rechtsverbindlich festgesetzt und durch die UNESCO anerkannt. (nach ARL 2003)

→ Unterschutzstellung

→ Umweltpolitik

Building Lines

see permissible lot coverage

Baulinie

siehe Überbaubare Grundstücksfläche

Building Permission

Permission for the construction, alteration, demolition, or conversion of a physical structure is required from the competent authority. It must be granted on application by the project sponsor if there is no legal impediment to the project. Building permission is therefore strictly governed by planning laws and regulations and other relevant legislation, for instance that relating to pollution and water. In individual cases, the building authorities may use its discretion to allow exceptions, exemptions or derogations. In most cases the competent authorities are county or municipal building inspectorates referred to variously as "Bauordnungsamt" or "Bauaufichtsamt." The details of application and permission procedures are set forth in state building regulations.

→ building regulations, building control law

→ planning law, urban development law

→ city, town

→ county

Baugenehmigung*

Die Errichtung, Veränderung, Beseitigung oder Nutzungsänderung einer baulichen Anlage bedarf grundsätzlich einer Genehmigung durch die zuständige Behörde, die auf Antrag des Bauherrn (Bauantrag) erteilt werden muss, wenn dem Bauvorhaben keine öffentlich-rechtlichen Vorschriften entgegenstehen. Damit unterliegt die Entscheidung über die Baugenehmigung einer strikten Rechtsbindung an bauplanungsrechtliche, an bauordnungsrechtliche und an weitere relevante Normen z.B. des Immissionsschutz- oder des Wasserrechts. In besonderen Einzelfällen kann die Erteilung einer Ausnahme oder Befreiung bzw. Abweichung nach Ermessen der zuständigen Behörde erfolgen. Die Baugenehmigungsbehörden sind in der Regel die Bauordnungs- oder Bauaufsichtsämter der kreisfreien Städte und der Landkreise. Die Einzelheiten von Bauantrags- und Baugenehmigungsverfahren sind im Wesentlichen in den bauordnungsrechtlichen Bestimmungen der Länder geregelt. (ARL 2001c)

→ Bauordnungsrecht/Bauaufsichtsrecht

→ Bauplanungsrecht/Städtebaurecht

→ Stadt

→ Landkreis, Kreis

Building Permission Authorities

see building permission

Baugenehmigungsbehörde

siehe Baugenehmigung

Building Regulations, Building Control Law

Unlike planning law (urban development law), building regulations (or building control law) are the purview of state legislation. Building regulations thus apply only within the state concerned. This allows state governments to take account of conditions

Bauordnungsrecht, Bauaufsichtsrecht(*)

Das Bauordnungsrecht, auch Bauaufsichtsrecht genannt, ist im Gegensatz zum Bauplanungsrecht (auch als Städtebaurecht bezeichnet) der Landesgesetzgebung vorbehalten. Die von den Bundesländern erlassenen Landesbauordnungen gelten dementspre-

specific to the given territory. As a rule, state building regulations are based on standard building regulations elaborated by the Conference of the Ministers and Senators of the States Responsible for Building, Housing and Settlement (ARGEBAU).

State building regulations contain substantive provisions relating to construction on site, as well as procedural provisions on building permission procedures and the organisation of building authorities. One key aspect of the substantive arrangements is conformity with generally accepted technical standards and technical building regulations in order to avert any risk to public safety and order.

→ planning law , urban development law

chend nur für den Bereich des betreffenden Landes; dies ermöglicht den Ländern auf länderspezifische Gegebenheiten einzugehen. In der Regel sind Landesbauordnungen nach der Musterbauordnung aufgebaut, die von der Arbeitsgemeinschaft der für Städtebau, Bau- und Wohnungswesen zuständigen Minister und Senatoren der 16 Länder (ARGEBAU) ausgearbeitet wird.

Landesbauordnungen beinhalten materielle Regelungen, deren Gegenstand die Ausführung der baulichen Anlagen auf dem Grundstück ist, und formelle Regelungen, die u.a. den Ablauf des Baugenehmigungsverfahrens und die Organisation der Bauaufsichtsbehörden regeln. Ein wesentlicher Aspekt der materiellen Regelungen ist die Einhaltung von allgemein anerkannten Regeln der Technik und der technischen Baubestimmungen, um Gefahren für die öffentliche Sicherheit und Ordnung abwehren zu können. (nach ARL 2003)

→ Bauplanungsrecht/Städtebaurecht

Building Stock Development

In the planning context, building stock development (Bestandsentwicklung) deals with existing settlement structures, building stock, infrastructure, and developed areas. It is the opposite of new development. In view of “limits to growth,” greater concern with the conservation of historic monuments, and the guideline of sustainable development, building stock development has grown in importance since the 1970s. Industrial structural change and the increasing scarcity of land for development induced a greater concentration on stock development, since many inner-city sites became vacant and were thus available for new uses, whereas suitable land for extensions on the urban fringe was often not available.

The most important components of stock development are urban development, urban renewal and urban redevelopment.

Urban development (Stadtentwicklung) is the interdisciplinary, overall development of a municipality driven by local authorities, i.e. especially with regard to existing building land and neighbourhoods.

Urban renewal (Stadterneuerung) denotes the measures laid down in the Federal Building Code (Special Urban Planning Law) for alleviating development deficiencies, and for the modernisation and further development of neighbourhoods. In rural areas the corresponding process is referred to as village renewal (Dorferneuerung).

Urban redevelopment (Stadtumbau) is a relatively new field, which is concerned with urban shrinkage and the adaptation of settlement structures to smaller populations.

Bestandsentwicklung

Unter Bestandsentwicklung versteht man im planerischen Zusammenhang den Umgang mit vorhandenen Siedlungsstrukturen, Bauwerken, Infrastrukturen oder Siedlungsflächen. Der Begriff beschreibt das Gegenteil einer Neuschaffung solcher Strukturen. Bestandsentwicklung hat im Zusammenhang mit den „Grenzen des Wachstums“, der Stärkung des Denkmalschutzes und dem Leitbild einer nachhaltigen Entwicklung seit den 1970er Jahren immer mehr an Bedeutung gewonnen. Auch der industrielle Strukturwandel und die zunehmende Knappheit potentieller Siedlungsfläche bieten Anlass für eine stärkere Konzentration auf die Bestandsentwicklung, da zahlreiche innerstädtische Flächen brach fielen und damit neuen Nutzungen zur Verfügung stehen, während für Siedlungserweiterungen am Stadtrand oft keine geeigneten Flächen zur Verfügung stehen.

Zu den wichtigsten Arbeitsfeldern der Bestandsentwicklung gehören Stadtentwicklung, Stadterneuerung und Stadtumbau.

Stadtentwicklung ist die administrativ gesteuerte, interdisziplinäre Gesamtentwicklung einer Gemeinde, d.h. vor allem ihrer bestehenden Bauflächen und Quartiere.

Stadterneuerung beschreibt die im Baugesetzbuch (Besonderes Städtebaurecht) geregelten Maßnahmen zur Behebung städtebaulicher Missstände, zur Modernisierung und Weiterentwicklung von Quartieren. Im ländlichen Raum spricht man entsprechend von Dorferneuerung.

Stadtumbau ist ein relativ neues Aufgabenfeld, das die Auseinandersetzung mit der schrumpfenden

→ urban renewal
→ urban development planning
→ urban redevelopment
→ sustainability
→ conservation of historic monuments

Building Use Category

The Land Utilisation Ordinance classifies types of building use. It distinguises two categories:

First, land-use areas for general types of use:
- housing land
- mixed building land
- industrial and commercial land
- special building land

This rough classification is to be used only in the preparatory land-use plan.

Second, land-use areas for specific types of building use:
- small holding areas
- purely residential areas
- general residential areas
- special residential areas
- village areas
- mixed areas
- core areas
- commercial areas
- industrial areas
- special areas.

These specific land-use areas can be designated in both the preparatory and the binding land-use plan and are finer-grained and more detailed categories.

The Land Utilisation Ordinance defines all the above development areas and provides details on what building projects and facilities are permitted.

→ Land Utilisation Ordinance
→ preparatory land-use plan
→ binding land-use plan

Bye-Law

Bye-laws (or municipal statutes) are generally binding ordinances adapted by municipalities and counties for the efficient performance of their au-

Stadt und die Anpassung von Siedlungsstrukturen an geringere Einwohnerzahlen umfasst.

→ Stadterneuerung
→ Stadtentwicklungsplanung
→ Stadtumbau
→ Nachhaltigkeit
→ Denkmalschutz

Art der baulichen Nutzung(*)

Die Arten der baulichen Nutzung sind in der Baunutzungsverordnung typisiert und geordnet. Hier werden zwei Kategorien von Arten der baulichen Nutzung unterschieden:

Zum einen Bauflächen als allgemeine Arten der baulichen Nutzung:
- Wohnbauflächen (W)
- gemischte Bauflächen (M)
- gewerbliche Bauflächen (G)
- Sonderbauflächen (S).

Diese eher gröberen Darstellungsarten sind nur im Flächennutzungsplan anwendbar.

Zum anderen Baugebiete als besondere Arten der baulichen Nutzung:
- Kleinsiedlungsgebiete (WS)
- reine Wohngebiete (WR)
- allgemeine Wohngebiete (WA)
- besondere Wohngebiete (WB)
- Dorfgebiete (MD)
- Mischgebiete (MI)
- Kerngebiete (MK)
- Gewerbegebiete (GE)
- Industriegebiete (Gl)
- Sondergebiete (SO).

Diese Baugebiete können sowohl im Flächennutzungsplan als auch im Bebauungsplan festgesetzt werden und sind von ihrer Darstellungsart eher feiner und detaillierter.

Im Abschnitt der BauNVO über die Art der baulichen Nutzung werden die aufgeführten Baugebiete definiert und im Hinblick auf die Zulässigkeit bestimmter Bauvorhaben und Einrichtungen näher beschrieben. (nach ARL 2001c)

→ Baunutzungsverordnung
→ Flächennutzungsplan
→ Bebauungsplan

Satzung

Satzungen sind allgemeinverbindliche Rechtsvorschriften, die von den Gemeinden und Kreisen zur wirksamen Erfüllung ihrer Selbstverwaltungsauf-

tonomous functions and to manage the affairs of the community. Article 28 of the Basic Law guarantees autonomous territorial authorities the right to adopt bye-laws on their own responsibility. Such bye-laws have to be passed by the municipal council or county council and promulgated (e.g. in the official journal of the local authority). Notification must normally be made to the supervisory authority. Examples of bye-laws are standing orders (Hauptsatzung), the budget bye-law (Haushaltssatzung), bye-laws on taxes and tees, service connection charges, etc. Particularly important in the field of urban development are binding land-use plans, which are issued in this form.

Special urban planning legislation also makes use of local bye-laws, for example for urban rehabilitation and development measures (preservation and development bye-law) and in urban redevelopment (implementing bye-law). The preservation statute is particular important, with which a municipality designates specific areas in a binding land-use plan, or in any other bye-law, as areas in which special permission is required for the demolition, alteration or change of use of a physical structure. The Federal Building Code provides three types of preservation statute.

The bye-law to preserve the specific urban character of an area is particularly concerned to protect the visual quality of the locality, the town or cityscape, the aesthetic value of a landscape, or other physical structures and elements of outstanding historical or artistic importance. A neighbourhood preservation statute (to maintain the composition of the local residential population) might be adapted to counteract the threat of displacement in an inner-city residential area owing to gentrification. Preservation statutes concerned with the reorganisation of the structure of urban development aim to ensure that reorganisation is undertaken in a manner which is socially equitable.

→ municipality, local authority
→ Federal Building Code
→ urban redevelopment measure
→ urban development measure
→ urban renewal
→ Socially Integrative City

Cadastral Register of Building Land

Local authorities are empowered by the Federal Building Code to compile and maintain cadastral registers of building land providing an overview of available building land within the territory of the municipality. Building land can be recorded immediately or in the foreseeable future in the form of

gaben bzw. zur Regelung ihrer Angelegenheiten erlassen werden. Die Satzungsautonomie ist den Selbstverwaltungskörperschaften durch Art. 28 des Grundgesetzes garantiert. Eine Satzung muss vom Gemeinderat oder Kreistag beschlossen und danach öffentlich bekannt gemacht werden (z.B. im gemeindlichen Amtsblatt). Üblicherweise muss sie der Rechtsaufsichtsbehörde angezeigt werden. Beispiele für Satzungen sind die Hauptsatzung, Haushaltssatzung, Satzungen über Abgaben, Erschließungsbeiträge, usw. Besonders wichtig im Bereich Stadtentwicklung sind die als Satzung erlassenen Bebauungspläne.

Darüber hinaus hält das besondere Städtebaurecht Satzungen bereit: Sie kommen bei den städtebaulichen Sanierungs- und Entwicklungsmaßnahmen (Erhaltungs- und Entwicklungssatzung) und auch im Stadtumbau (Durchführungssatzung) zum Einsatz. Besondere Bedeutung kommt der Erhaltungssatzung zu, mit der die Gemeinde in einem Bebauungsplan oder durch eine sonstige Satzung Gebiete bezeichnen kann, für die besondere Genehmigungstatbestände hinsichtlich des Abbruchs, der Änderung oder der Nutzungsänderung baulicher Anlagen gelten. Im Baugesetzbuch werden drei Arten von Erhaltungssatzungen aufgeführt.

Bei der Satzung zur Erhaltung der städtebaulichen Eigenart eines Gebietes geht es vor allem um den Schutz des Ortsbildes, der Stadtgestalt, des Landschaftsbildes oder sonstiger städtebaulich, insbesondere geschichtlich oder künstlerisch bedeutsamer baulicher Anlagen. Die Aufstellung einer Milieuschutzsatzung (Satzung zur Erhaltung der Zusammensetzung der Wohnbevölkerung) kann z.B. bei unter Aufwertungsdruck geratenen Innenstadtwohngebieten zum Schutz der ansässigen Wohnbevölkerung vor Vertreibung angeraten sein. Satzungen für städtebauliche Umstrukturierungen sollen einen sozial gerechten Ablauf der Umstrukturierungen im Stadtteil ermöglichen.

→ Gemeinde
→ Baugesetzbuch
→ Städtebauliche Sanierungsmaßnahme
→ Städtebauliche Entwicklungsmaßnahme
→ Stadtumbau
→ Soziale Stadt

Baulandkataster(*)

Das Baugesetzbuch enthält eine Ermächtigung an die Gemeinden, Baulandkataster aufzustellen, die einen Überblick über verfügbare Baulandpotentiale im Gemeindegebiet ermöglichen. Dazu kann die Gemeinde sofort oder in absehbarer Zeit bebaubare Flächen in Karten oder Listen auf der Grundlage

maps or lists on the basis of site maps containing the parcel or lot number, street names and site dimensions. The municipality may publish this information in map or list form, provided the owners of the property concerned do not object. Municipalities are required to advertise their intention to publish such details at least one month prior to publication, stating that property owners are entitled to object.

→ Federal Building Code

→ municipality, local authority

→ property, site, parcel, lot, plot

Catchment Area

"Verflechtungsbereich" literally "interactional space" is used synonymously with "Einzugsbereich" and "Einzugsgebiet" or catchment area, the area served by a city with its central functions. In state spatial planning the concept is used in connection with the central-place system. It refers to the area whose population is served by the central place. Catchment areas are defined on the basis of the predominant orientation to a central place displayed by the resident population, taking into account both tolerable distances to central places and the capacity of central-place facilities. In terms of the different service functions of central places, a distinction is made between local, intermediate, and extended areas. local catchment areas satisfying basic everyday needs surround every central place; intermediate catchment areas around each middle-order and high-order centre meet periodic needs, and extended areas around each high-order centre satisfy specialised needs. The definition of these areas is the responsibility of state spatial planning, and is laid down in state spatial planning concepts (spatial structure plans).

The urban region (Stadt-Umland-Bereich or Stadtregion) denotes a city with its catchment area in the narrower sense, where the relationship is not one of central place and tributary area but of more or less continuous built development with strong identificational ties. It encompasses the core city and suburban belt, but not the more distant, rural parts of the catchment area.

→ central-place system

→ spatial structure plan

→ regional plan

→ state development plan

→ urban region

eines Lageplans erfassen, der Flur- und Flurstücksnummern, Straßennamen und Angaben zur Grundstücksgröße enthält. Diese bebaubaren Flächen kann die Gemeinde in Karten oder Listen veröffentlichen, soweit der Grundstückseigentümer dem nicht widersprochen hat. Die Absicht zur Veröffentlichung ist einen Monat vorher öffentlich, unter Hinweis auf das Widerspruchsrecht der Grundstückseigentümer, bekannt zu geben. (nach ARL 2001c)

→ Baugesetzbuch

→ Gemeinde

→ Grundstück

Verflechtungsbereich(*)

Ein Verflechtungsbereich bezeichnet den räumlichen Bereich, in den eine Stadt mit ihren zentralen Funktionen ausstrahlt. Synonym werden auch die Begriffe Einzugsbereich oder Einzugsgebiet verwendet. In der Landesplanung wird der Begriff Verflechtungsbereich im Zentrale-Orte-System verwendet. Es ist dort jener räumliche Bereich, dessen Bevölkerung vom zugehörigen zentralen Ort versorgt wird. Der Verflechtungsbereich wird auf Grundlage der vorherrschenden Orientierungsrichtung der Bevölkerung unter Berücksichtigung der zumutbaren Entfernung zum zentralen Ort und der Tragfähigkeit für zentralörtliche Einrichtungen abgegrenzt. Dabei wird, der jeweiligen Versorgungsaufgabe entsprechend, zwischen Nah-, Mittel- und Oberbereichen unterschieden. Nahbereiche befinden sich um jeden zentralen Ort zur Deckung des Grundbedarfs, Mittelbereiche um jedes Mittel- und Oberzentrum zur Deckung des gehobenen periodischen Bedarfs und Oberbereiche um jedes Oberzentrum zur Deckung des spezialisierten höheren Bedarfs. Die Definition der Bereiche erfolgt durch die Landesplanung und wird in deren Konzepten (Raumordnungspläne) festgehalten.

Der Begriff Stadt-Umland-Bereich (synonym auch Stadtregion) bezeichnet im engeren Sinne den Verflechtungsbereich einer Stadt, in dem neben den zentralfunktionalen auch enge bauliche und identifikatorische Verflechtungen bestehen. Dies umfasst die zentrale Kernstadt und ihren Vorortgürtel, jedoch nicht die weiter entfernten ländlichen Teile des Einzugsgebiets. (nach ARL 2003)

→ Zentrale-Orte-System

→ Raumordnungsplan

→ Regionalplan

→ Landesentwicklungsplan

→ Stadtregion

Central-Place System

The central-place system goes back to the work of Walter Christaller (1933). Since the 1960s, it has had a decisive influence on the spatial planning strategies for developing settlement structure in the Federal Republic of Germany. The central-place classificatory system is an important tool in state and regional planning, and is laid down in spatial structure plans. In addition to supplying the needs of its own population, a central place performs service and development functions for the population of its catchment area. The central place system constitutes a hierarchy of basic, lower-order or small centres, middle-order centres, and high-order centres as determined at the different levels of state spatial planning. Some states insert intermediate categories in the hierarchy. Depending on their assignment to a central place, catchment areas are defined as local, intermediate or extended areas.

The lowest level in the hierarchy is occupied by basic centres (low-order centres, small centres) with a local catchment area. They are designated in regional plans, and their functions include supplying the basic daily needs of the population and providing a minimum of public and private infrastructure (general secondary school, doctor, chemist, tradesmen, etc.). Middle-order centres are central places that meet more demanding, medium-term needs of the population in the intermediate catchment area (secondary schools leading to university entrance, hospitals, a variety of shopping amenities, etc.), and are designated by state spatial planning. They are also labour-market centres for their catchment area. High-order centres are also designated by state spatial planning and meet demanding, specialised requirements of the population in the extended catchment area (technical colleges / universities, specialised clinics, large department stores, etc.). High-order centres also have a greater supply of highly qualified and skilled labour.

→ catchment area
→ regional plan
→ state spatial planning
→ spatial structure plan

Zentrale-Orte-System(*)

Das Zentrale-Orte-System geht auf die Arbeiten von Walter Christaller (1933) zurück und prägt seit den 1960er Jahren die raumordnerischen Konzepte zur Entwicklung der Siedlungsstruktur in der Bundesrepublik Deutschland. Die zentralörtliche Gliederung ist wichtiges Instrument der Landes- und Regionalplanung und wird in den Raumordnungsplänen festgesetzt. Zentrale Orte übernehmen neben der Versorgung ihrer Einwohner festgeschriebene Versorgungs- und Entwicklungsfunktionen für die Bevölkerung ihres Einzugsbereichs (auch Verflechtungsbereich genannt). Das zentralörtliche System ist hierarchisch gegliedert in Grund-, Unter- bzw. Kleinzentren, Mittelzentren und Oberzentren, welche auf verschiedenen Planebenen der Bundesländer festgelegt werden. In einigen Bundesländern gibt es weiterhin auch Zwischenstufen in der Hierarchie. Die Verflechtungsbereiche werden entsprechend ihrer Zuordnung zu einem Zentralen Ort Nah-, Mittel- oder Oberbereich genannt.

Auf der untersten Hierarchiestufe befinden sich die Grundzentren (Unter-, Kleinzentren), mit einem zugehörigen Nahbereich. Sie werden in Regionalplänen ausgewiesen und haben unter anderem die Aufgabe, den Grundbedarf (täglicher Bedarf) der Bevölkerung zu decken und ein Mindestmaß an öffentlicher und privater Infrastruktur anzubieten (Hauptschule, Arzt, Apotheke, Handwerksbetriebe, etc.). Mittelzentren sind zentrale Orte zur Deckung des gehobenen periodischen Bedarfs der Bevölkerung im Mittelbereich (zum Abitur führende Schulen, Krankenhäuser, vielseitige Einkaufsmöglichkeiten, etc.) und werden durch die Landesplanung ausgewiesen. Sie sind zugleich Arbeitsmarktzentrum für ihren Verflechtungsbereich. Oberzentren werden ebenfalls durch die Landesplanung ausgewiesen und decken den höheren spezialisierten Bedarf der Bevölkerung im Oberbereich (Fachhochschulen/ Universitäten, Spezialkliniken, Großkaufhäuser, etc.). Zugleich verfügen Oberzentren in größerem Umfang über qualifizierte Arbeitskräfte. (nach ARL 2003, ARL 2002 und Blotevogel 2005b)

→ Verflechtungsbereich
→ Regionalplan
→ Landesplanung
→ Raumordnungsplan

City Network

A city network is a voluntary cooperative grouping on an equal footing of cities in a region or neighbouring regions. The prime aim is to optimise the efficient use of the partners' endogenous potentials.

Städtenetz(*)

Ein Städtenetz ist eine freiwillige und gleichberechtigte Kooperation von Städten einer Region oder benachbarter Regionen. Dabei geht es vorrangig um eine möglichst effiziente Nutzung endogener Poten-

Central places provide the basis for city networks. To this extent, city networks complement existing planning elements. They can make an important contribution to making planning both more flexible and more oriented towards action and implementation. It is helpful if implementation-oriented objectives are set in cooperation for specific core tasks with spatial impacts in the region.

Two types of city network are distinguished. The first type is the interregional network based on functional commonalities, in which geographical proximity is not decisive. The aims of this type of network might include to join forces to assert common interests in an increasingly integrated Europe, whilst guarding their separate identities, and developing joint strategies for certain policy areas (e.g. university research, technology transfer, city marketing and culture).

The second type is the intraregional network, where cooperation is based on geographical proximity. Networks of this type aim to provide a common focus for the talents and locational assets which exist within a coherent region, and to develop a sense of common regional identity, thereby reducing the rivalry which frequently exists among local authorities, achieving cost savings and exploiting synergies, and establishing a joint regional policy. Under Section 13 of the Federal Spatial Planning Act, cooperation between local authorities must be supported in order to promote developments in individual regions (city networks).

→ central-place system

→ elements of spatial planning

→ Federal Spatial Planning Act

tiale der kommunalen Partner. Grundlage eines Städtenetzes bilden die Zentralen Orte. Insofern ergänzen Städtenetze die vorhandenen Planungselemente. Sie können einen wichtigen Beitrag dazu leisten, dass das planungspolitische Agieren flexibler, handlungs- und umsetzungsorientierter wird. Dabei ist hilfreich, wenn in der Kooperation konkrete und raumbedeutsame regionale Kernaufgaben mit umsetzungsorientierten Zielsetzungen in Angriff genommen werden.

Es werden zwei Städtenetz-Typen unterschieden. Den ersten Typ bilden interregionale Netze auf der Basis ähnlicher funktionaler Beziehungen, bei denen räumliche Nähe kein entscheidendes Kriterium darstellt. Ziele dieses Städtenetz-Typs sind zum Beispiel, gemeinsam in einem zusammenwachsenden Europa Stärke zu zeigen, dabei aber die eigene Identität zu bewahren und insbesondere auf bestimmten Feldern (Hochschulforschung, Technologie-Transfer, Städtemarketing oder Kultur) gemeinsame Handlungsstrategien zu entwickeln.

Unter dem zweiten Typ werden intraregionale Netze auf der Basis räumlicher Nähe verstanden. Ziel dieses Städtenetz-Typs ist es, die unterschiedlichen Begabungen und Standortbedingungen in einer überschaubaren Region zu bündeln, ein regionales Gemeinschaftsgefühl zu entwickeln und damit zugleich kommunale Konkurrenzen abzubauen, Ressourcen zu sparen und gemeinsame Synergieeffekte zu nutzen sowie eine gemeinsame regionale Politik zu etablieren. Nach § 13 des Raumordnungsgesetzes ist die Zusammenarbeit von Gemeinden zur Stärkung teilräumlicher Entwicklungen (Städtenetze) zu unterstützen. (nach ARL 2003)

→ Zentrale-Orte-System

→ Planungselemente der Raumordnung und Landesplanung

→ Raumordnungsgesetz

City State

see state and city, town

Stadtstaat

siehe Land, Bundesland und Stadt

City, Town

A “Stadt” is an urban community – city or town – to which the state has granted the right to bear the name. Unlike the status granted by historical city charters, this title has little legal significance. The threshold population for “Stadt“ status in most states is about 10,000.

However, the legal status of towns and cities in Germany varies considerably.

- The “amtsangehörige Gemeinde” is a municipality forming part of an administrative association of municipalities. Such communities have trans-

Stadt

Eine Stadt ist eine Gemeinde, der vom Land das Recht verliehen wurde, den Titel „Stadt“ zu tragen. Im Gegensatz zum historischen Stadtrecht besitzt dieser Titel heute nur noch geringe rechtliche Bedeutung. Als Schwellenwert für die Verleihung des Stadttitels kann in den meisten Bundesländern eine Einwohnerzahl von etwa 10.000 angenommen werden.

Die Städte in Deutschland unterscheiden sich jedoch erheblich hinsichtlich ihrer rechtlichen Stellung. Es gibt:

ferred their autonomous rights almost entirely to the association (variously termed "Amt," "Samtgemeinde," "Verbandsgemeinde"). A "Stadt" belonging to such an association is the exception.
- The "kreisangehörige Stadt" and "kreisangehörige Gemeinde", are municipalities belonging to a county (Kreis or Landkreis), which performs many municipal functions on their behalf
- The „kreisangehörige Stadt" and „kreisangehörige Gemeinde" with special status. These muncipalities subsumed under counties can perform certain functions of the county if they have a certain population level (between 20,000 and 60,000, depending on the state). From state to state they bear different titles, such as "große Kreisstadt" (major county town), "Sonderstatusstadt" (special status city), and the like.
- The "kreisfreie Stadt," (county-free city, independent city, or county borough) a city that constitutes a county in its own right. In addition to municipal functions, it performs all county functions itself The average minimum population for county-free cities is about 100,000, although the figure is much lower in some states and higher in others. 114 cities in German have county-free status (status 2003).
- The "Stadtstaat" (city state), cities which are also states of the federation. In city states, the authorities handle not only municipal and county tasks but also those of a state government. Berlin, Hamburg, and Bremen are city states.

In the system of territorial units for statistical purposes (NUTS) developed by Eurostat for use in Europe, the three city states in Germany are assigned to the NUTS classification level 1, and the 114 county-free cities to NUTS 3.

→ state

→ county

→ municipality, local authority

→ territorial authority

- amtsangehörige Gemeinden: diese Gemeinden haben ihre Selbstverwaltungsrechte fast vollständig auf eine Verwaltungsgemeinschaft (Amt, Samtgemeinde, Verbandsgemeinde) übertragen. Amtsangehörige Städte gibt es nur ausnahmsweise.
- kreisangehörige Städte und Gemeinden: Städte und Gemeinden, die einem Landkreis angehören, der zahlreiche kommunale Aufgaben an ihrer Stelle erledigt.
- kreisangehörige Städte und Gemeinden mit Sonderstatus: Ab einer gewissen Einwohnerzahl (je nach Land zwischen 20.000 und 60.000) können kreisangehörige Städte einige Kreisaufgaben selbst wahrnehmen. Sie tragen (je nach Land unterschiedliche) Titel wie „Große Kreisstadt", „Sonderstatusstadt" u.ä.
- kreisfreie Städte: Städte, die einen eigenen Kreis bilden. Sie erledigen neben den kommunalen Aufgaben auch alle Kreisaufgaben selbst. Die Mindesteinwohnerzahl kreisfreier Städte liegt in den meisten Ländern bei etwa 100.000, in einigen deutlich darunter, in anderen darüber. 114 Städte der Bundesrepublik zählen zu den kreisfreien (Stand 2003).
- Stadtstaaten: Städte, die gleichzeitig Länder sind. Hier erledigt die Stadtverwaltung nicht nur Gemeinde- und Kreisaufgaben, sondern zusätzlich auch die einer Landesregierung. Stadtstaaten sind Berlin, Hamburg und Bremen.

In der von Eurostat entwickelten, in Europa verwendeten, Systematik der Gebietseinheiten für die Statistik (NUTS) entsprechen die 3 Stadtstaaten der Bundesrepublik Deutschland der Klassifikationsebene NUTS 1 und die 114 kreisfreien Städte der Ebene NUTS 3. (nach Schmidt-Eichstaedt 2005)

→ Land, Bundesland

→ Landkreis

→ Gemeinde

→ Gebietskörperschaft

Cluster, Spatial

A cluster is a spatial concentration of small and large enterprises, research facilities, and other actors from the same or related sectors. A cluster encompasses upstream and downstream production and service activities as well as specialised infrastructure to support these activities. Such regional concentration can be theoretically justified in terms of agglomeration effects.

In regional policy, concepts for strengthening regional clusters (so-called cluster strategies) have become increasingly important. Underlying these concepts is the idea of identifying potential clusters on the basis of regional strengths and consolidating

Cluster, räumliche

Cluster nennt man eine räumliche Konzentration von kleinen und großen Unternehmen, Forschungseinrichtungen und anderen Akteuren der gleichen oder ähnlichen Branchen. Ein Cluster umfasst vor- und nachgelagerte Produktions- und Dienstleistungsaktivitäten sowie eine spezialisierte Infrastruktur, die diese Aktivitäten unterstützt. Theoretisch lässt sich die regionale Konzentration mit positiven Agglomerationseffekten begründen.

In der Regionalpolitik haben die Konzepte zur Stärkung regionaler Cluster (sog. Clusterstrategien) zunehmend an Bedeutung gewonnen. Diesen Konzepten liegt die Idee zugrunde, ausgehend von

them through targeted promotion ("strengthening strengths") in order to enhance the region's attractiveness for commerce and industry and to bind existing firms to the region. Owing to the "Cooperation Networks and Cluster Management" scheme added to the joint programme "Improvement of Regional Economic Structures in January 2005, many states and regions in Germany now operate with cluster strategies.

→ joint task/responsibility
→ infrastructure
→ state
→ regional policy
→ region

Community Transport Financing Act

The Community Transport Financing Act (GVFG) provides the basis for the Federation to provide financial assistance to the states for improving local transport and traffic conditions. The state government passes the money on to local authorities, which have to apply for funding. The types of investment to benefit from this assistance include the construction of local highways, bus lanes, the building or extension of public transport systems, and the purchase of new buses. One of the conditions for support is that the improvements to transport and traffic conditions envisaged by with the project should, in terms of both nature and scale, be a matter of urgent need and that such measures should be consistent with the goals of federal and state spatial planning.

→ federation, federal government
→ state
→ goals of spatial planning

Comprehensive Planning

Comprehensive planning (master planning, development planning) predominated in the 1960s and 1970s. The assumptions on which it proceeded were:

- that decision-making processes are governed by an ends-means rationale and planning is directed towards the "public interest;"
- that planners are in a very strong position, and as experts have exact knowledge of the "public in-

regionalen Stärken die potentiellen Cluster zu identifizieren und durch gezielte Förderung zu festigen („die Stärken stärken"), um damit einerseits die Attraktivität der Region als Wirtschaftsstandort zu erhöhen und andererseits bestehende Unternehmen an die Region zu binden. Bedingt durch das im Januar 2005 neu in die Gemeinschaftsaufgabe „Verbesserung der regionalen Wirtschaftsstruktur" aufgenommene Förderangebot „"Kooperationsnetzwerke und Clustermanagement" verfügen mittlerweile eine Vielzahl an (Bundes-)Ländern und Regionen über Clusterstrategien. (nach Porter 1998, Maier/Tödtling/Trippl 2005)

→ Gemeinschaftsaufgabe
→ Infrastruktur
→ Land
→ Regionalpolitik
→ Region

Gemeindeverkehrsfinanzierungsgesetz(*)

Auf der Grundlage des Gemeindeverkehrsfinanzierungsgesetzes (vollständig: Gesetz über Finanzhilfen des Bundes zur Verbesserung der Verkehrsverhältnisse der Gemeinden – GVFG) gewährt der Bund den Ländern Finanzhilfen für Investitionen zur Verbesserung der Verkehrsverhältnisse in den Gemeinden. Die Länder geben die Gelder an die Gemeinden weiter, die entsprechende Anträge dafür stellen müssen. Zu den geförderten Investitionen gehören u. a. innerörtliche Hauptverkehrsstraßen, besondere Fahrspuren für Omnibusse, Bau oder Ausbau von Verkehrswegen, die dem öffentlichen Personennahverkehr dienen, und die Beschaffung von Omnibussen. Voraussetzung für die Förderung ist u. a., dass das Vorhaben nach Art und Umfang zur Verbesserung der Verkehrsverhältnisse dringend erforderlich ist und die Ziele der Raumordnung und Landesplanung berücksichtigt werden. (nach ARL 2003)

→ Bund
→ Land
→ Ziele der Raumordnung

Umfassende Planung

Umfassende Planung (comprehensive planning, Entwicklungsplanung) ist ein Planungsansatz, der vor allem in den 1960er und 70er Jahren das Planungsverständnis prägte. Sie geht dabei von folgenden Grundannahmen aus:

- Entscheidungsprozesse sind als Zweck-Mittel-Rationalität aufgebaut, wobei die Planung am „öffentlichen Interesse" ausgerichtet ist;

terest" and act accordingly; and that they have no power interests of their own;
- that specialised, sectoral plans are integrated and directed towards a common goal, the "public interest" (synoptic ideal).

The preconditions for comprehensive planning is thorough knowledge about the initial situation, about planning alternatives, and about the consequences of implementation. Among the greatest deficiencies of the model, apart from the unrealistic assumption that planners act solely in the public interest, is that this precondition is seldom met. Since the 1980s, more pragmatic approaches have displaced comprehensive planning. Among the best known applications of comprehensive planning are the urban development planning procedures established at the time in many cities. Current integrated urban development concepts also share certain features with the comprehensive planning paradigm. (adapted from Jochimsen 1969; Altshuler 1965)

→ strategic planning

→ urban development planning

- eine sehr starke Stellung der Planenden, denen als Fachleute genaue Kenntnis des „öffentlichen Interesses" und ein Handeln in seinem Sinne unterstellt wird; eigene Machtinteressen der Planenden werden dabei nicht angenommen;
- eine Integration der spezialisierten Fachplanungen und ihre Ausrichtung auf ein gemeinsames Ziel, das „öffentliche Interesse" (Synoptisches Ideal).

Voraussetzung für Umfassende Planung sind vollständige Grundlageninformationen über Ausgangslage, Planalternativen und Konsequenzen einer möglichen Umsetzung. Dass diese jedoch selten in erforderlicher Form zu Verfügung stehen, gehört – neben der realitätsfremden Annahme, dass Planer ausschließlich dem öffentlichen Interesse folgen – zu den größten Schwächen des Modells. Deshalb verdrängten seit den 1980er Jahren pragmatischere Ansätze die Umfassende Planung als Grundlage des Planungshandelns. Zu den bekanntesten Anwendungen Umfassender Planung gehört die damals in vielen Städten eingerichtete Stadtentwicklungsplanung; auch die heutigen Integrierten Stadtentwicklungskonzepte weisen Züge des Paradigmas der umfassenden Planung auf (nach Jochimsen 1969; Altshuler 1965)

→ Strategische Planung

→ Stadtentwicklungsplanung

Conference of Ministers for Spatial Planning

The Federal Spatial Planning Act places a duty on the federal state governments to consult on fundamental issues relating to federal and state spatial planning. The Conference of Ministers for Spatial Planning, which brings together the competent federal and state ministers was set up in 1967 specifically for this purpose. Although the decisions taken by the conference have no binding effect, they have nonetheless made a major contribution to establishing consensus on the aims and purposes of spatial planning in Germany.

Ministerkonferenz für Raumordnung*

Das Raumordnungsgesetz verpflichtet die Bundesregierung und die Landesregierungen zu gemeinsamer Beratung von grundsätzlichen Fragen der Raumordnung und Landesplanung. Zu diesem Zweck wurde 1967 die Ministerkonferenz für Raumordnung (MKRO) eingerichtet. Mitglieder sind die für die Raumordnung zuständigen Ressortchefs des Bundes und der Länder. Obwohl die Beratungsergebnisse der MKRO als Entschließungen keine Verbindlichkeit erlangen, haben sie wesentlich zu einem einheitlichen raumordnerischen Grundverständnis in Deutschland beigetragen. (ARL 2003)

Conservation of Historic Monuments

The conservation of historic monuments (Denkmalschutz) is a system of prohibitions and enforcement orders designed to protect and preserve cultural monuments and historic landmarks, objects, parts of objects or ensembles whose conservation is in the public interest for artistic, historical, technical, scientific, or urban development reasons. Heritage management (Denkmalpflege) denotes the intellectual, technical, artisanal, and artistic measures required to

Denkmalschutz

Unter Denkmalschutz versteht man die auf Ver- und Geboten beruhende Bewahrung von Kulturdenkmälern, also von Sachen, Sachteilen oder Sachgesamtheiten, an deren Erhaltung aus künstlerischen, geschichtlichen, technischen, wissenschaftlichen oder städtebaulichen Gründen ein öffentliches Interesse besteht. Denkmalpflege bezeichnet die geistigen, technischen, handwerklichen und künstlerischen Maßnahmen, die zur Unter- und Erhaltung

maintain and conserve cultural monuments, as well as financial aid for owners and publicity for heritage management cause.

In Germany, autonomy in cultural matters is vested in the states, which accordingly have legislative competence for heritage management and the conservation of historic monuments. Hence there are sixteen acts pertaining to the subject matter. But securing and preserving cultural monuments is also a major cultural policy priority of the federal government, which can directly influence the protection of cultural monuments of national importance through the "Federal Commissioner for Culture and the Media." The commissioner makes an active contribution to this field in, for example, urban development and tax law. Conservation is also supported through federal tax law (e.g. accelerated depreciation of investment in listed buildings).

→ state

→ protected status

von Kulturdenkmälern erforderlich sind, sowie die finanziellen Hilfen für die Eigentümer und die Werbung für den Gedanken der Denkmalpflege.

In Deutschland liegt die Gesetzgebungskompetenz für Denkmalschutz und Denkmalpflege bei den Ländern im Rahmen ihrer Kulturhoheit. Demzufolge existieren 16 Denkmalschutzgesetze. Die Sicherung und Erhaltung von Kulturdenkmälern ist aber auch ein Schwerpunkt der Kulturpolitik der Bundesregierung, welche über einen "Beauftragten der Bundesregierung für Angelegenheiten der Kultur und der Medien" direkten Einfluss auf die Erhaltung von Kulturdenkmälern von nationaler Bedeutung ausübt. Der Beauftragte trägt u.a. im Bereich des Städtebau- und Steuerrechts zur Erfüllung dieser Aufgabe bei. Denkmalschutz wird auch über das Steuerrecht des Bundes begünstigt (z.B. beschleunigte Abschreibung von Investitionen in denkmalgeschützte Gebäude). (nach Echter/Krautzberger 2005)

→ Land

→ Unterschutzstellung

Contaminated Sites

The German term "Altlasten" refers to disused waste disposal and other sites with exensive soil contamination identified by hazard assessment as a concrete threat to human health or the environment. Contaminated waste disposal sites include closed refuse dumps with domestic and industrial waste, as well as decommissioned industrial sites. The national legal basis for dealing with suspected contaminated sites is provided by the Federal Soil Protection Act and the Federal Soil Protection and Contaminated Sites Ordninance.

→ soil conservation, Soil Protection Act

→ derelict land, vacant site, brownfield site

Altlasten*

Mit dem Begriff Altlasten bezeichnet man Altablagerungen und Altstandorte mit großflächigen Bodenverunreinigungen, von denen nach erfolgter Gefährdungsabschätzung eine konkrete Bedrohung der menschlichen Gesundheit oder der Umwelt ausgeht. Altablagerungen können insbesondere stillgelegte Ablagerungsplätze mit kommunalen und gewerblichen Abfällen sein; Altstandorte sind insbesondere ehemalige Betriebsgelände. Rechtsgrundlage zur bundeseinheitlichen Behandlung von altlastverdächtigen Flächen sind das Bundes-Bodenschutzgesetz (BBodSchG) und die Bundes-Bodenschutz- und Altlastenverordnung (BBodSchV). (gekürzt von ARL 2001c)

→ Bodenschutz, Bundesbodenschutzgesetz

→ Brachfläche

Conurbation

see agglomeration

Ballungsraum

siehe Agglomeration

Convention on Spatial Planning

Spatial planning conventions (regional planning/ spatial planning agreements) are international agreements, for instance establishing governmental commissions on cross-border cooperation. Section 16 of the Federal Spatial Planning Act states that "spatially relevant plans and measures that may have a substantial impact on neighbouring countries shall be coordinated with the neighbouring countries af-

Raumordnungsabkommen

Raumordnungsabkommen sind Vereinbarungen zwischen Staaten auf dem Gebiet der Raumordnung, z.B. zur Gründung von Regierungskommissionen zur grenzüberschreitenden Zusammenarbeit. Nach § 16 Raumordnungsgesetz sind „raumbedeutsame Planungen und Maßnahmen, die erhebliche Auswirkungen auf Nachbarstaaten haben können, […] mit den betroffenen Nachbarstaaten nach den

fected in accordance with the principles of reciprocity and equivalence." The aim of such agreements is primarily to establish firm, long-term forms of cooperation between public authorities on the various levels of planning. Since the 1960s, the Federal Republic has concluded bilateral agreements with almost all neighbouring countries, usually resulting in fruitful cooperation. A major multilateral regional planning agreement is the European Spatial Development Concept (ESDC) adapted by member states of the EU.

→ cross-border spatial planning

Cooperative Preparatory Land-Use Plan

see preparatory land-use plan

County

A county (Landkreis or Kreis) is a territorial authority in the form of a local government association composed of a number of municipalities. Counties have the right to manage all the affairs of the local community on their own responsibility within the limits set by law (self-government tasks), and perform functions that are beyond the administrative and financial capacity of member municipalities. Counties also perform governmental functions assigned to them by law (delegated functions). From the spatial planning point of view, for example, they include functions governed by building law and nature conservation law. Counties are thus both associations of municipalities and lower governmental administrative authorities. Matters falling within the purview of local government autonomy are decided by a directly elected assembly, the county council (Kreistag). The administrative head of the county is a directly elected chief executive, the "Landrat." The functions of counties and their relations with state and municipalities are regulated by state statute. Counties finance themselves by means of a levy (county levy) on member municipalities.

In the system of territorial units for statistical purposes (NUTS) developed by Eurostat for use in Europe, the 439 counties in Germany are assigned to the NUTS 3 classification level.

→ municipality, local authority

→ territorial authority

→ local planning autonomy

Grundsätzen der Gegenseitigkeit und Gleichwertigkeit abzustimmen". Das Ziel solcher Abkommen ist vor allem die längerfristige Festlegung festgefügter Formen der behördlichen grenzübergreifenden Zusammenarbeit auf den jeweiligen Planungsebenen. Die Bundesrepublik schloss seit den 1960er Jahren mit fast allen Nachbarstaaten solche bilateralen Abkommen, aus denen teilweise erfolgreiche Kooperationen hervorgegangen sind. Ein bedeutendes nicht nur bilaterales Raumordnungsabkommen ist das von den Mitgliedstaaten der EU beschlossene Europäische Raumentwicklungskonzept (EUREK). (nach AGEG 2000: 165)

→ Grenzüberschreitende Raumordnung

Gemeinsamer Flächennutzungsplan

siehe Flächennutzungsplan

Landkreis, Kreis*

Ein Landkreis (auch Kreis genannt) ist eine Gebietskörperschaft in Form eines aus mehreren Gemeinden bestehenden Kommunalverbandes. Die Landkreise haben das Recht, alle Angelegenheiten der örtlichen Gemeinschaft im Rahmen der Gesetze in eigener Verantwortung zu regeln (Selbstverwaltungsangelegenheiten) und nehmen Aufgaben wahr, die das administrative und finanzielle Leistungsvermögen der angehörigen Gemeinden übersteigen. Die Kreise erfüllen aber auch staatliche Aufgaben, die ihnen durch Gesetz zugewiesen sind (Auftragsangelegenheiten). Dies sind aus raumplanerischer Sicht beispielsweise bestimmte Aufgaben aus dem Baurecht oder dem Naturschutzrecht. Die Kreise sind also gleichzeitig kommunaler Gemeindeverband als auch untere staatliche Verwaltungsbehörde. Über die Selbstverwaltungsangelegenheiten beschließt ein direkt gewähltes Parlament, der Kreistag, Leiter der Kreisverwaltung ist der direkt gewählte Landrat. Die Aufgaben der Landkreise und ihr Verhältnis zu Land und Gemeinden werden in den Landkreisordnungen der Länder geregelt. Kreise finanzieren sich durch eine von den Mitgliedsgemeinden erhobene Umlage, die Kreisumlage.

In der von Eurostat entwickelten, in Europa verwendeten, Systematik der Gebietseinheiten für die Statistik (NUTS) entsprechen die 439 Kreise der Bundesrepublik Deutschland der Klassifikationsebene NUTS 3. (nach ARL 2003, ARL 2002)

→ Gemeinde

→ Gebietskörperschaft

→ kommunale Planungshoheit

County-Free City

see city, town

kreisfreie Stadt

siehe Stadt

Cross-Border Spatial Planning

Cross-border spatial planning encourages the exchange of information and the coordination of planning in border areas to avoid contradictory or mutually incompatible action. Cross-border spatial planning can take place on a number of levels, across national, state, and regional borders.

Cross-border cooperation in planning with neighbouring countries is often entrusted to bilateral or multilateral spatial planning consultative bodies, especially in the form of spatial planning commissions and working groups.

Co-operation on spatial planning across state borders within Germany is a matter of cooperation between the supreme state spatial planning authorities and/or the regional planning authorities of two or more states. It takes place within a variety of organisational structures (e.g. ad hoc/special purpose associations, joint working-parties) with differing legal bases (e.g. statute, treaty, administrative agreement, or agreement under public law).

Whereas within the country, in the case of spatial structure plans crossing state boundaries, planning that is binding on downstream plans is possible if inter-state treaties have established the basis, this is still not possible in the case of planning across national borders. Owing to their lack of binding force, transnational concepts are more in the way of development concepts. However, there are also cross-state development concepts within Germany. In the case of cross-border development, greater emphasis is placed on the development concept and the coordination of objectives than on organisational elements.

Grenzüberschreitende Raumordnung(*)

Grenzüberschreitende Raumordnung dient dem Informationsaustausch und der Abstimmung über Planungen im Grenzraum, um widersprüchliches bzw. gegenseitig unverträgliches Planungshandeln zu vermeiden. Grenzüberschreitende Raumordnung kann auf verschiedenen Ebenen stattfinden: Bundesgrenzen überschreitende Raumordnung und Bundesländer- und Regionengrenzen überschreitende Raumordnung.

Die grenzüberschreitende planerische Zusammenarbeit mit dem Ausland erfolgt häufig in Gremien zur bilateralen bzw. multilateralen Beratung der Raumordnung mit benachbarten Staaten der Bundesrepublik Deutschland insbesondere in Form von Raumordnungskommissionen und Arbeitsgemeinschaften.

Die grenzüberschreitende planerische Zusammenarbeit im Bundesgebiet erfolgt durch Zusammenarbeit der obersten Landesplanungsbehörden und/oder der Träger der Regionalplanung zwischen zwei oder mehreren Ländern in unterschiedlichen Organisationsformen (z.B. Zweckverband, Arbeitsgemeinschaft) und auf verschiedenen Rechtsgrundlagen (z.B. Gesetz, Staatsvertrag, Verwaltungsabkommen, öffentlich-rechtliche Vereinbarung).

Während innerstaatlich, bei Ländergrenzen übergreifenden Raumordnungsplänen, bei Vorliegen der erforderlichen staatsvertraglichen Grundlagen Raumordnungspläne erarbeitet werden können, die gegenüber nachgeordneten Plänen bindend sind, ist dies im Staatsgrenzen überschreitenden Bezug nach wie vor nicht möglich. Mangels Verbindlichkeit weisen Staatsgrenzen überschreitende Konzepte eher den Charakter von Entwicklungskonzepten auf Es gibt aber auch Entwicklungskonzepte innerhalb Deutschlands, die Ländergrenzen übergreifend angelegt sind. Die Entwicklungskonzepte und die Zielabstimmung fallen bei grenzüberschreitenden Entwicklungskonzepten stärker ins Gewicht als ordnende Elemente. (nach ARL 2002)

Cultural Landscape

A cultural landscape is a landscape area whose characteristics in terms of overall structure, land use, fauna and flora species and water and energy reserves have largely been shaped by human activity.

Kulturlandschaft*

Als Kulturlandschaft bezeichnet man einen Landschaftsbereich, dessen Gliederung, Flächennutzung, Pflanzen- und Tierbestand, Wasserwirtschaft und Energiehaushalt weitgehend durch die Zivilisation

The eco-systems it contains are thus predominantly anthropogenic. All landscapes in densely populated areas can now be described as cultural or man-made landscapes. These contrast with natural (or at least nearly-natural) landscapes.

→ natural landscape

bestimmt und somit durch überwiegend anthropogene Ökosysteme gebildet wird. Alle Landschaften dicht besiedelter Räume sind heute als Kulturlandschaften zu bezeichnen. Den Gegensatz bilden die Naturlandschaften oder zumindest noch naturnahen Landschaften. (ARL 2003)

→ Naturlandschaft

Decentralised Concentration

Decentralised concentration, a guiding principle embodied at the federal level in the Federal Spatial Planning Act and the Spatial Planning Policy Guidelines, envisages balanced spatial and settlement structures throughout the country. The guiding principle derives from Walther Christaller's 1933 central place theory. Maintaining a decentralised settlement structure for the entire national territory with many efficient centres and urban regions is intended to prevent strong spatial disparities and overburdening in growth regions. It can also improve the prospects for development in regions distant from urban agglomerations (strengthening endogenous regional potential).

In the endeavour to achieve decentralised concentration, the guiding principal policy instrument applied by spatial planners is the central places concept. More recent, informal planning approaches such as the city network can also prove useful.

→ central place system

→ city network

→ spatial planning policy guidelines and spatial planning policy framework for action

Dezentrale Konzentration(*)

Das auf Bundesebene im Raumordnungsgesetz und Raumordnungspolitischen Orientierungsrahmen verankerte Leitbild der dezentralen Konzentration verfolgt das Ziel, eine bundesweit ausgeglichene Raum- und Siedlungsstruktur zu entwickeln bzw. zu sichern. Das raumordnerische Leitbild ist eine Weiterentwicklung von Walther Christallers Theorie der Zentralen Orte aus dem Jahr 1933. Durch die Erhaltung einer dezentralen Siedlungsstruktur des Gesamtraums mit seiner Vielzahl leistungsfähiger Zentren und Stadtregionen sollen starke räumliche Disparitäten sowie Überlastungen in Wachstumsregionen verhindert werden. Zudem kann hierdurch auch eine Verbesserung der Entwicklungschancen agglomerationsferner Regionen (Stärkung der regionalen Eigenkräfte) erreicht werden.

Zur Verwirklichung des Leitbildes einer dezentralen Konzentration steht der Regionalplanung vor allem das Zentrale-Orte-Konzept als raumordnungspolitisches Instrument zur Verfügung, wobei auch neuere informelle Planungsansätze wie z.B. Städtenetze zielführend eingesetzt werden können. (nach ARL 2001a)

→ Zentrale-Orte-System

→ Städtenetze

→ Raumordnungspolitischer Orientierungs- und Handlungsrahmen

Density of Built Use

The main purpose of stipulating the density of built use or degree of building coverage is to stipulate the density of development and the construction height of physical structures, and the proportion of a development site which may be built on. The density of built use can be determined by including stipulations on

- the site occupancy index or plot coverage rate,
- the floor-space index or floor area,
- the cubing ratio or building volume,
- the number of full storeys,
- the height of physical structures.

The site occupancy index is the ratio of the actual surface area of a plot to permissible coverage. It is expressed as a simple ratio of built surface area to

Maß der baulichen Nutzung(*)

Angaben zum Maß der baulichen Nutzung in den Bauleitplänen verfolgen im Wesentlichen den Zweck, die Bebauungsdichte und die Höhenentwicklung baulicher Anlagen sowie den Anteil überbauter Grundstücksfläche zu bestimmen. Das Maß der baulichen Nutzung kann gemäß der Baunutzungsverordnung bestimmt werden durch

- die Grundflächenzahl oder Größe der Grundflächen der baulichen Anlagen,
- die Geschossflächenzahl oder Größe der Geschossfläche,
- die Baumassenzahl oder die Baumasse,
- die Zahl der Vollgeschosse,
- die Höhe baulicher Anlagen.

site area. This value makes it possible to calculate the proportion of the surface area of a development site which may be covered.

The floor-space index indicates the relationship between the total floor space of all of the storeys in a building and the size of the development site. The total floor space is calculated on the basis on the external dimensions of all full storeys; i.e. it includes external and internal walls and stairways, although exceptions are possible for certain types of physical structure and sections of buildings.

The cubing ratio indicates the maximum volume of buildings per square metre of plot area. It is calculated on the basis of the external dimensions of buildings from the floor of the lowest full storey to the ceiling of the uppermost full storey. In respect of industrial, commercial and special-use areas, planning designations may be made without the need for details on the number of storeys.

Depending on the building use category, the Land Utilisation Ordinance sets limits to the site occupancy index, floor-space index, and cubing ratio, which may for specific reasons be exceeded.

When the degree of building coverage is set in a binding land-use plan, the site occupancy index or the proportion of the site to be covered by physical structures must always be stated; the number of full storeys and the height of construction need to be set if failure to do so might be detrimental to the public interest, and especially to the appearance of the locality or landscape.

→ binding land-use plan
→ Land Utilisation Ordinance
→ preparatory land-use plan
→ urban land-use planning

Als Grundflächenzahl (GRZ) wird das Verhältnis zwischen der überbaubaren Fläche und der Grundstücksfläche in Form eines dimensionslosen Dezimalbruchs angegeben. Diese Zahl ermöglicht die rechnerische Ermittlung des Anteils eines Baugrundstücks, der von baulichen Anlagen überdeckt werden darf

Die Geschossflächenzahl (GFZ) gibt das Verhältnis zwischen der Summe der Geschossflächen und der Grundstücksfläche an. Die rechnerische Ermittlung der Geschossfläche schließt die Außenmaße der Gebäude in allen Vollgeschossen, somit auch die Umfassungswände und Treppenräume ein, wobei beistimmte bauliche Anlagen und Gebäudeteile ausgenommen bleiben.

Die Baumassenzahl (BMZ) gibt an, wieviel Kubikmeter Baumasse je Quadratmeter Grundstücksfläche zulässig sind. Die Massenermittlung umfasst die Außenmaße der Gebäude vom Fußboden des ersten Vollgeschosses bis zur Decke des obersten Vollgeschosses. Bei Industriegebieten, Gewerbegebieten und Sondergebieten können auch ohne Angaben zur Geschossigkeit genaue planerische Festlegungen erfolgen.

Für Grundflächenzahl, Geschossflächenzahl und Baumassenzahl werden durch die Baunutzungsverordnung nach Art der baulichen Nutzung differenzierte Obergrenzen vorgegeben, die mit bestimmten Gründen auch überschritten werden dürfen.

Bei der Festsetzung des Maßes der baulichen Nutzung im Bebauungsplan ist stets die Grundflächenzahl oder die Größe der Grundflächen der baulichen Anlagen festzusetzen; die Zahl der Vollgeschosse oder die Höhe baulicher Anlagen ist dann festzusetzen, wenn ohne ihre Festsetzung öffentliche Belange, insbesondere das Orts- und Landschaftsbild, beeinträchtigt werden können. (nach ARL 2003)

→ Bebauungsplan
→ Baunutzungsverordnung
→ Flächennutzungsplan
→ Bauleitplanung

Derelict Land, Vacant Site, Brownfield Site

The German term “Brachfläche,” variously translated as derelict land/site, vacant land/site, brownfield site, is not clearly defined and covers a broad field of meaning. Its origins are in agriculture, where “Brache” means “fallow (land)” land left uncultivated for a year to restore its fertility in the three-field crop rotation system. In urban studies and urban planning practice, “Brache” has been applied to abandoned or formerly developed land particularly since the 1970s, when economic and technical struc-

Brachfläche

Der Begriff Brachfläche hat bisher keine einheitliche Definition erfahren und wird in unterschiedlicher Weise angewendet. Der Ursprung des Begriffs liegt in der Landwirtschaft, wo Brache einen unbestellter Acker beschreibt, der innerhalb der Dreifelderwirtschaft zu Regenerationszwecken ein Jahr lang nicht genutzt wird. Auch in der Stadtforschung und Stadtplanungspraxis wird der Brachenbegriff zur Beschreibung nicht mehr genutzter Flächen verwendet, verstärkt seit den 1970er Jahren, wo aufgegebene

tural change led to the widespread abandonment of sites. In contrast to fallow land in agriculture, the derelict or vacant sites in this context are not deliberately taken out of the use cycle, but usually find no subsequent use. There are many and varied reasons, such as the type and state of the sites. Vacant land can be categorized in terms of descriptive attributes (former use, size, contamination risk, etc.), economic attributes (cost and yield aspects), temporal aspects (short-term or permanent abandonment), and action-oriented aspects (need for intervention to change locational qualities enabling revitalisation or subsequent use).

The Federal Building Code and the Federal Spatial Planning Act stipulate that the recycling of vacant developed land takes priority over the use of previously undeveloped land.

→ Federal Building Code

→ Federal Spatial Planning Act 4

Standorte in Folge des wirtschaftlichen und technischen Strukturwandels ein allgemeines Phänomen wurden. Im Unterschied zur landwirtschaftlichen Brache werden die Flächen in diesem Kontext allerdings zumeist nicht bewusst aus dem Nutzungszyklus genommen, sondern es findet sich meist keine Nachnutzung. Die Gründe dafür sind vielfältig, wie auch Typ und Zustand der Fläche. Brachflächen lassen sich anhand deskriptiver Merkmale (vorherige Nutzung, Größe, Altlastenrisiko, etc.), ökonomischer Merkmale (Kosten- und Ertragsaspekte), zeitlicher Aspekte (kurzfristige, dauerhafte Aufgabe der Nutzung) und handlungsorientierter Merkmale (Interventionsnotwendigkeiten zur Änderung der Standorteigenschaften, die eine Revitalisierung oder Anschlussnutzung ermöglichen) abgrenzen.

Gesetzlich ist durch Baugesetzbuch und Raumordnungsgesetz geregelt, dass der Wiedernutzung von brachgefallenen Siedlungsflächen ein Vorrang gegenüber der Inanspruchnahme neuer Freiflächen zu geben ist. (nach Böhme/Henckel/Besecke 2004)

→ Baugesetzbuch

→ Raumordnungsgesetz

Development Programme

An development programme is a public sector measure for the financial support of specific projects.

There are numerous development programmes in a wide range of areas. A distinction can be made in spatial planning between support for urban areas and regional aid. There are not only EU development programmes but also federal, state, and joint federal/state programmes.

EU programmes include Urban/Urban II (aid for neighbourhoods in crisis) and the EFRE structural fund (European Fund for Regional Development: for the development of disadvantaged regions) and ESF (European Social Fund). The federal government and state governments provide assistance under the joint programme "Improvement of Regional Economic Structures" and through urban development promotion. State government aid includes local investment funds and the promotion of infrastructure. The federal/state Reconstruction Loan Corporation (Kreditanstalt für Wiederaufbau – KfW) provides aid in many areas including the development of local infrastructure and housing modernisation.

→ joint task/responsibility

→ regional policy

→ economic development aid

Förderprogramme

Ein Förderprogramm ist eine öffentliche Maßnahme zur finanziellen Unterstützung bestimmter Projekte.

Es besteht eine große Vielzahl von Förderprogrammen für die verschiedensten Bereiche. In der Raumplanung kann zwischen der Förderung urbaner Räume und der Regionalförderung unterschieden werden. Neben Programmen der EU kommen v. a. Förderprogramme des Bundes, der Länder, sowie gemeinsame Förderprogramme von Bund und Ländern zum Einsatz.

Auf EU-Ebene bestehen z.B. die Programme Urban/Urban II (Unterstützung krisenbetroffener Stadtviertel) oder die Strukturfonds EFRE (Europäischer Fonds für regionale Entwicklung: Förderung benachteiligter Regionen) und ESF (Europäischer Sozialfonds). Bund und Länder fördern gemeinsam im Rahmen der Gemeinschaftsaufgabe „Verbesserung der regionalen Wirtschaftsstruktur" und der Städtebauförderung. Reine Länderförderungen sind unter anderem der Kommunale Investitionsfonds und die Förderung bestimmter Infrastrukturen des Landes. Auch die von Bund und Ländern getragene Kreditanstalt für Wiederaufbau (KfW) unterstützt neben zahlreichen anderen Bereichen die Entwicklung kommunaler Infrastrukturen oder die Modernisierung von Wohnraum.

→ Gemeinschaftsaufgaben

→ Regionalpolitik

→ Wirtschaftsförderung

Disparities, Spatial

The term spatial disparities refers to unbalanced structures within an area or between different sub-areas. Structural differences exist between continents as well as between countries and within countries. An imbalance is reflected in differing living and working conditions and in unequal opportunities for economic development. Regional policy is particularly concerned with disparities between regions in Germany. Strategies range from compensation (balancing out disadvantages) and growth enhancement ("strengthening strengths").

→ regional policy

→ region

→ economic development aid

→ equivalence of living conditions

Disparitäten, räumliche

Räumliche Disparitäten bezeichnen unausgeglichene Strukturen innerhalb eines Raums bzw. zwischen verschiedenen Teilräumen. Dabei sind Strukturunterschiede sowohl zwischen Kontinenten, als auch zwischen Staaten sowie innerhalb einzelner Staaten zu erkennen. Die Unausgeglichenheit äußert sich in unterschiedlichen Lebens- und Arbeitsbedingungen sowie in ungleichen wirtschaftlichen Entwicklungsmöglichkeiten. Mit Disparitäten zwischen den Regionen in Deutschland beschäftigt sich insbesondere die Regionalpolitik. Dabei bewegt sich die Politik zwischen Ausgleichs- (Nachteilsausgleich) und Wachstumsstrategien („die Stärken stärken"). (nach BBR 2005c, Frankenfeld 2005:185ff)

→ Regionalpolitik

→ Region

→ Wirtschaftsförderung

→ Gleichwertigkeit der Lebensbedingungen

District (municipal/urban)

The term "Stadteil" refers to a subdivision of a town or city. A number of meanings can be distinguished.

In the narrower, administrative sense, "Stadtteil" or "Ortsteil" refers to a district officially designated by the municipality with a name of its own. In many cases the area in question was formerly an independent municipality that has become part of the present municipality by annexation or merger. In many states, representative assemblies can be elected in districts. Furthermore, a district can constitute a planning or statistical spatial unit. In some states in Germany, districts in large cities are integrated into "Stadtbezirke," superordinate districts which general have a district assembly and administration. Depending on the local government constitution of each state, the powers vested in districts differ considerably.

"Quartier," "Stadtviertel," and "Kiez," in contrast, are informal terms for limited, spatially and socially coherent urban areas best described in English as "neighbourhoods." Their boundaries are flexible, depending as they do on the perception of residents, and do not correspond to official district boundaries. Such areas defined more in terms of functional criteria are the areas of application for local development promotion programmes such as the "Socially Integrative City" and neighbourhood management.

→ municipality, local authority

→ city, town

→ Socially Integrative City

Stadtteil

Der Begriff Stadtteil beschreibt einen innerstädtischen Teilraum. Es können dabei Bedeutungsebenen unterschieden werden:

Ein Stadtteil (im engeren, administrativen Sinne) oder Ortsteil ist ein von der Gemeinde amtlich festgelegtes Teilgebiet mit eigenem Namen. In vielen Fällen handelt es sich dabei um das frühere Gemeindegebiet einer ehemals selbständigen Gemeinde, die durch Eingemeindung oder Fusion Teil der heutigen Gemeinde wurde. In vielen Bundesländern können in Ortsteilen politische Vertretungen gewählt werden. Weiterhin kann ein Stadtteil auch eine Planungs- oder statistische Raumeinheit bilden. In einigen Bundesländern sind die Stadtteile großer Städte zu Stadtbezirken zusammengefasst, die regelmäßig ein Bezirksparlament und eine Bezirksverwaltung besitzen. Die Kompetenzausstattung ist je nach Kommunalverfassung des jeweiligen Landes sehr unterschiedlich ausgeprägt.

Quartier, Stadtviertel oder Kiez ist dagegen eine informelle Bezeichnung für einen überschaubaren, räumlich und sozial kohärenten Stadtbereich. Seine Begrenzung ist flexibel, von der Identifikation der Bewohner abhängig und muss nicht den amtlichen Stadtteilgrenzen entsprechen. Solche nach funktionaleren Kriterien abgegrenzten Gebiete sind der Geltungsbereich für Förderprogramme der Stadtteilarbeit, etwa „Soziale Stadt" oder Quartiersmanagement.

→ Gemeinde

→ Stadt

→ Soziale Stadt

District, District Administration

"Regierungsbezirk," literally "government district" is a administrative subdivision of certain states in Germany. Five states (status 2005) divide their territory into such districts, which are endowed with administrative structures. The chief official of the district is the "Regierungspräsident" (literally "government president"). These districts constitute a middle tier between counties and county-free cities on the one hand and the state on the other. The Regierungsbezirk is generally responsible for almost all substantive administrative matters, on which it has the final say.

In the interests of simplifying administrative structures and in view of tight public finances, many states are debating abolition of these districts and transferring their functions to the counties and the state. The number of states subdivided into such districts has accordingly diminished in recent years from eight to five: Baden-Württemberg (4 districts), Bavaria (7), Hessen (3), North Rhine-Westphalia (5), and Saxony (3). They have been abolished in Rhineland-Palatinate, Saxony-Anhalt, and Thuringia.

In the system of territorial units for statistical purposes (NUTS) developed by Eurostat for use in Europe, "Regierungsbezirke" are assigned to classification level NUTS 2.

→ state

→ county

→ city, town

Regierungsbezirk

Ein Regierungsbezirk ist die Unterteilung des Gebiets eines Bundeslandes zum Zwecke der Verwaltung. Fünf Länder (Stand 2005) gliedern ihr Hoheitsgebiet in Regierungsbezirke und haben dort staatliche Verwaltungen eingerichtet. Diese Regierungsbezirke werden vom Regierungspräsidenten geleitet. Sie bilden eine eigene Mittelinstanz zwischen den Landkreisen und den kreisfreien Städten auf der einen und den Ländern auf der anderen Seite. In den Regierungsbezirken sind in der Regel nahezu alle sachlichen Verwaltungszuständigkeiten konzentriert und werden dort abschließend beschlossen.

In vielen Bundesländern wird vor dem Hintergrund von Verwaltungsvereinfachung und knapper öffentlicher Mittel diskutiert, die Regierungsbezirke abzuschaffen und die Aufgaben auf die Landkreise und die Länder zu verlagern. Daher hat sich die Zahl der Bundesländer, die in Regierungsbezirke aufgeteilt sind, in den letzten Jahren von acht auf fünf reduziert: Baden-Württemberg (4 Regierungsbezirke), Bayern (7), Hessen (3), Nordrhein-Westfalen (5) und Sachsen (3). Abgeschafft wurden sie in Rheinland-Pfalz, in Sachsen-Anhalt und in Thüringen.

In der von Eurostat entwickelten, in Europa verwendeten, Systematik der Gebietseinheiten für die Statistik (NUTS) entsprechen die Regierungsbezirke der Klassifikationsebene NUTS 2. (nach Schmidt-Eichstaedt 2005)

→ Land, Bundesland

→ Landkreis

→ Stadt

Duty to Provide Information and Duty to Participation

see tools for securing and implementing spatial planning

Informations- und Beteiligungspflicht

siehe Sicherungsinstrumente der Raumordnungs und Landesplanung

Eco-Audit

EMAS (Eco-Management and Audit Scheme) referred to in short as eco-audit, is a procedure developed by the European Union for the continuous improvement of corporate environmental protection. Over and above enforceable law, companies, public and territorial authorities undertake to carry out environmental audits, to introduce eco-management systems, and to set themselves targets for improving organisational environmental management. After evaluation of their annual environmental declara-

Öko-Audit(*)

Öko-Audit auch als EMAS (Eco-Management and Audit Scheme) bezeichnet, ist ein von der Europäischen Union entwickeltes Verfahren zur kontinuierlichen Verbesserung des betrieblichen Umweltschutzes. Dabei verpflichten sich Unternehmen, aber auch Behörden oder Gebietskörperschaften, über das geltende Recht hinaus zur Durchführung einer Umweltbetriebsprüfung, zur Einführung eines Umweltmanagementsystems und dazu, bestimmte selbst gesetzte Ziele zur kontinuierlichen Verbes-

tions by external environmental experts, companies and institutions are entered in a local register maintained by chambers of industry and commerce. This permits them to advertise with a EU-wide eco-label. Details have been regulated in Germany since 2001 by the Environmental Audit Act.

Economic Development Aid

Economic development aid can be divided roughly into support provided firstly by the federal and state governments, and that supplied by local authorities.

The local-authority economic development aid takes the form of activities and measures for establishing favourable conditions for the development of private enterprise and which accordingly improve the general living conditions for the local population. The chief aims of local economic development aid are:

- to improve locational conditions for commerce and industry,
- to create a diversified local economic structure,
- to safeguard and development employment opportunities and
- to increase the financial position of local authorities.

The aid provided jointly by the federal and state governments centres on the framework plans under the "Improvement of Regional Economic Structures" programme. Almost all states have complementary regional economic development programmes for areas not covered by the "joint task" but which, in the view of the state in question, nonetheless warrant special economic support. In addition to regional programmes, there are also a large number of federal and state sectoral aid programmes. Generally speaking, federal and state economic development policy and local government policy pursue similar aims. Both seek to improve infrastructure and promote economic growth in order to improve the living standards of the people living within their respective jurisdictions. They differ in terms of the instruments available to them and their frame of reference.

→ joint task/responsibility

→ development programme (EU, federal, state)

→ regional policy

serung ihres betrieblichen Umweltmanagements zu erreichen. Nach Begutachtung ihrer jährlich zu veröffentlichenden Umwelterklärung durch einen externen Umweltgutachter werden die Unternehmen bzw. Einrichtungen in ein bei den Industrie- und Handelskammern geführtes Standortregister eingetragen. Sie erhalten damit die Befugnis, mit einem EU-einheitlichen Umweltzeichen standortbezogene Werbung zu betreiben. Einzelheiten sind in Deutschland seit 2001 im Umweltauditgesetz (UAG) geregelt. (nach ARL 2002)

Wirtschaftsförderung*

Im Rahmen der Wirtschaftsförderung kann man grob zwischen der Wirtschaftsförderung von Bund und Ländern einerseits und der kommunalen Wirtschaftsförderung andererseits unterscheiden.

Unter kommunaler Wirtschaftsförderung sind gezielte Aktivitäten und Maßnahmen der kommunalen Gebietskörperschaften zur Schaffung günstiger Rahmenbedingungen für die Entwicklung wirtschaftlicher Unternehmen und damit zur Verbesserung der allgemeinen Lebensbedingungen der Bewohner zu verstehen. Als Hauptziele kommunaler Wirtschaftsförderung können benannt werden:

- die Verbesserung der betrieblichen Standortbedingungen,
- die Schaffung einer branchenmäßig diversifizierten Wirtschaftsstruktur,
- die Sicherung und der Ausbau des Arbeitsplatzangebotes und
- die Erhöhung der Finanzkraft der Kommunen.

Das Kernstück der gemeinsamen Wirtschaftsförderung von Bund und Ländern stellen die Rahmenpläne nach dem „Gesetz über die Gemeinschaftsaufgabe zur Verbesserung der regionalen Wirtschaftsstruktur" dar. In Ergänzung dazu verfügen fast alle Länder über eigene regionale Wirtschaftsförderungsprogramme für jene Gebiete, die in die Gemeinschaftsaufgabe nicht einbezogen worden sind, aber einer besonderen Förderung aus Ländersicht bedürfen. Neben den regionalen Programmen existieren auch noch zahlreiche sektorale Bundes- und Landesförderungsprogramme. Generell betrachtet ähneln sich die Ziele staatlicher und kommunaler Wirtschaftsförderungspolitik. Beide Politikarten sind bestrebt, hauptsächlich durch Verbesserung der Infrastrukturen und durch Förderung des wirtschaftlichen Wachstums Verbesserungen der Lebensverhältnisse der Bewohner in ihren räumlichen Zuständigkeitsbereichen zu erzielen. Sie unterscheiden sich jedoch im Hinblick auf die eingesetzten Instrumente und die jeweiligen Bezugsräume. (ARL 2003)

→ Gemeinschaftsaufgabe

→ Förderprogramme

→ Regionalpolitik

Elements of Spatial Planning

In setting out the goals of spatial planning, programmes and plans (planning instruments) draw on a number of planning elements of both conceptual and instrumental importance. They include:

- axes,
- functions in national and state spatial planning,
- guideline values,
- spatial category or
- the central place system.

→ axes,

→ assignment of functions (in spatial planning)

→ guideline values

→ spatial category,

→ central place system

Planungselemente der Raumordnung und Landesplanung*

Zur Festlegung der Ziele der Raumordnung stützen sich die Programme und Pläne (Planungsinstrumente) auf Planungselemente ab, die von konzeptioneller und instrumenteller Bedeutung sind. Hierzu gehören vor allem:

- Achsen,
- Funktionen in der Raumordnung und Landesplanung,
- Richtzahlen, Richtwerte, Orientierungswerte,
- Raumkategorie oder
- das Zentralörtliches System (ARL 2003).

→ Achsen

→ Funktionen in der Raumordnung und Landesplanung

→ Richtwert, Richtzahl, Orientierungswert

→ Raumkategorie

→ Zentrale-Orte-System

Endogenous Development Potential

Endogenous potential refers to the scope for development which exists within a region, and contrasts with resources to foster development brought in from outside. This concept represents an "up-grading" of the notion of the region as a unit of decision-making and action vis-à-vis more centrally oriented spatial planning policy at the national level. In particular, endogenous potential takes account of the potential for innovation found in the private sector and in the regional workforce. It is hoped that targeting resources directly on the specific development potential existing in the region will produce more appropriate solutions to regional problems, and more economic use of funds than when a more central authority channels external potentials into the region. Spatial planning policy accordingly has to deal primarily with the specific problems of particular regions and to propose "customised" solutions.

→ region

→ spatial planning

→ regional policy

endogenes Entwicklungspotential*

Das endogene Potential bezeichnet die Entwicklungsmöglichkeiten innerhalb einer Region im Gegensatz zu den von außen herangeführten Entwicklungsressourcen. Die Region wird somit als Entscheidungs- und Handlungseinheit gegenüber einer mehr zentral orientierten Raumordnungspolitik aufgewertet. Insbesondere ist an das Innovationspotential im Unternehmens- und Arbeitskräftebereich gedacht. Durch den Ansatz unmittelbar am jeweiligen spezifischen Entwicklungspotential einer Region erhofft man sich eine problemadäquatere Lösung von Problemen mit wirtschaftlicherem Mitteleinsatz, als es bei einer mehr zentralen Steuerung durch Lenkung von fremden Potentialen in die Region möglich ist. Das erfordert, dass sich Raumordnungspolitik primär mit den jeweils besonderen Fragen einzelner Regionen befasst und hierfür „individuelle" Lösungsvorschläge unterbreitet. (ARL 2003)

→ Region

→ Raumordnung

→ Regionalpolitik

Environmental Impact Assessment EIA

Environmental impact assessment represents an integral part of procedures applied by authorities when deciding upon the admissibility of projects. EIA covers the identification, description, and evaluation of the environmental impacts that ensue from the implementation of planning on:

Umweltverträglichkeitsprüfung UVP(*)

Die Umweltverträglichkeitsprüfung (UVP) ist ein unselbständiger Teil verwaltungsbehördlicher Verfahren, die der Entscheidung über die Zulässigkeit von Vorhaben dienen. Die UVP umfasst die Ermittlung, Beschreibung und Bewertung der Auswirkungen eines Vorhabens auf

- human beings, animals and plants, soil, water, air, climate, and landscape, including interactions between these protected assets and
- cultural heritage and other material assets

Environmental impact assessment is conducted with public participation. EIA is governed by the Environmental Impact Assessment Act, which derives from the EU Directive 85/337/EEC. An annex to the act lists all of the projects and activities are subject to EIA.

EIA is thus primarily and important tool in preventive environmental protection. It helps to prevent, reduce or mitigate the adverse environmental effects associated with a project by subjecting the proposal to systematic, prior scrutiny according to a set of defined minimum procedural and material standards. EIA is concerned with both whether a proposed project should be allowed to proceed, and with the manner in which it is to be implemented. By requiring co-operation between developers, public authorities and the general public, EIA also puts into practice the principle of cooperative planning. As a precautionary tool, EIA is characterised by the integrative approach it adopts and by the principle of early appraisal. In addition to environmental impact assessment for evaluating projects, German planning law (also pursuant to an EU directive) provides for so-called strategic environmental assessment, which is prescribed for all spatial structure plans, preparatory land-use plans and binding land-use plans.

→ strategic environmental assessment (SEA)

→ public participation

- Menschen, Tiere und Pflanzen, Boden, Wasser, Luft, Klima und Landschaft einschließlich der jeweiligen Wechselwirkungen sowie
- Kultur- und sonstige Sachgüter.

Die UVP wird unter Einbeziehung der Öffentlichkeit durchgeführt. Geregelt wird die UVP im Gesetz über die Umweltverträglichkeitsprüfung, das auf die Richtlinie 85/337/EWG der EU zurückgeht. In dessen Anlage sind alle Vorhaben aufgeführt, die einer Umweltverträglichkeitsprüfung unterliegen.

Primär ist die UVP damit ein wichtiges Instrument vorsorgenden Umweltschutzes. Mit ihrer Hilfe sollen schädliche Umweltauswirkungen eines Vorhabens vermieden, gemindert oder ausgeglichen werden, indem sie vor der Realisierung des Vorhabens einer systematischen Prüfung mit bestimmten verfahrensmäßigen und inhaltlichen Mindestanforderungen unterzogen werden. Die UVP bezieht sich sowohl auf das Ob als auch auf das Wie des geplanten Vorhabens. Mit der notwendigen Zusammenarbeit zwischen den Vorhabensträgern, den Behörden und der Öffentlichkeit dient die UVP außerdem der Verwirklichung des Kooperationsprinzips. Als Instrument der Vorsorge ist die UVP durch ihren integrativen Ansatz und durch den Grundsatz der Frühzeitigkeit der Prüfung gekennzeichnet. Neben der Umweltverträglichkeitsprüfung, als Umweltprüfung für Vorhaben, sieht das Planungsrecht in Deutschland (ebenfalls aufgrund einer EU-Richtlinie) eine sog. strategische Umweltprüfung vor, die für sämtliche Raumordnungspläne, für die Flächennutzungspläne sowie für die verbindlichen Bebauungspläne vorgeschrieben ist. (nach ARL 2002)

→ Strategische Umweltprüfung (SUP)

→ Öffentlichkeitsbeteiligung

Environmental Policy

Environmental policy is the term applied to governmental action for dealing with environmental problems. Environmental law is a product of this policy. Since the early 1970s, environmental policy has been part and parcel of federal government policy. There has been a Federal Ministry of the Environment since 1986. Major autonomised sectoral authorities are the Federal Environmental Agency, the Federal Agency for Nature Conservation, and the Federal Office for Protection against Radiation. The most important policy level for environmental matters is now the European Union. 80 % of all German legislation in this field is concerned with transposing European environmental policy into German law. It is incumbent on the states to implement environmental legislation, which gives them the opportunity to influence environmental policy. Certain functions fall within the remit of municipalities and counties,

Umweltpolitik

Als Umweltpolitik wird das staatliche Handeln zur Lösung von Umweltproblemen bezeichnet. Aus ihr geht das Umweltrecht hervor. Seit Beginn der 1970er Jahre ist die Umweltpolitik Bestandteil der Bundespolitik, ein Bundesumweltministerium besteht seit 1986. Wichtigste verselbständigte Fachbehörden sind das Umweltbundesamt, das Bundesamt für Naturschutz und das Bundesamt für Strahlenschutz. Die wichtigste Politikebene für Umweltpolitik ist mittlerweile die europäische; bei 80 % aller deutschen Rechtsetzungsverfahren in diesem Bereich handelt es sich um die Umsetzung europäischer Umweltpolitik in deutsches Recht. Den Bundesländern obliegt die Umsetzung der Umweltgesetze, wodurch sie Möglichkeiten besitzen, die Umweltpolitik in ihrem Sinne zu beeinflussen. Einige umweltrelevante Befugnisse (Abfallbeseitigung, Wasserversorgung, Abwasserentsorgung, Bauleitplanung, Verkehrspla-

such as waste disposal, public water supply, sewage disposal, urban land-use planning, and transport planning. However, environmental policy is also pursued by non-governmental actors, especially environmental organisations and industry.

Environmental policy tools include direct intervention (prohibitions and enforcement orders, permissions and contracts), indirect control (levies, taxes, subsidies, certificates, self-regulation), and control through planning (e.g. preparatory land-use plans, clean air plans, and waste management plans).

Environmental quality targets or goals are developed on the basis of general environmental policy principles, such as sustainable development. These goals specify certain quality levels defined in terms of content, space, and time for resources, potentials, and functions that are to be maintained or attained in concrete situations. Mostly, however, they cannot be directly implemented but require further operationalisation. This is achieved on the basis of environmental quality standards. They transform the often indeterminate legal concepts of environmental law into precisely defined parameters and provide a detailed description of the technical requirements of projects with an impact on the environment. They can take the form of ordinances, administrative regulations, and private regulatory regimes.

→ nature conservation

→ evironmental impact assessment

→ strategic environmental assessment, SEA

nung) liegen im Zuständigkeitsbereich der Gemeinden und Landkreise. Umweltpolitik wird jedoch auch ohne hoheitliche Beteiligung betrieben, vor allem von Umweltverbänden und Akteuren der Wirtschaft.

Instrumente der Umweltpolitik umfassen die direkte Einflussnahme (Ver- und Gebote, Genehmigungen und Verträge), indirekte Steuerung (Abgaben, Steuern, Subventionen, Zertifikate, Selbstverpflichtungen) sowie die planerische Steuerung (z.B. durch Flächennutzungspläne, Luftreinhaltepläne oder Abfallwirtschaftspläne).

Aus allgemeinen Leitbildern der Umweltpolitik, etwa dem der Nachhaltigen Entwicklung, werden so genannte Umweltqualitätsziele abgeleitet. Diese geben bestimmte sachlich, räumlich und zeitlich definierte Qualitäten von Ressourcen, Potenzialen oder Funktionen an, die in konkreten Situationen erhalten oder entwickelt werden sollen. Sie können jedoch meist nicht direkt umgesetzt werden, sondern bedürfen der weiteren Operationalisierung. Dies geschieht durch die Ableitung von Umweltqualitätsstandards. Sie setzen die oftmals unbestimmten Rechtsbegriffe des Umweltrechts in präzise definierte Größen um und beschreiben detailliert die technischen Anforderungen an umweltrelevante Vorhaben. Sie können als Rechtsverordnungen, Verwaltungsvorschriften und auch als private Regelwerke ergehen. (nach Jänicke/Volkery 2005)

→ Naturschutz

→ Umweltverträglichkeitsprüfung

→ Strategische Umweltprüfung, SUP

Environmental Quality Standard

see environmental policy

Umweltqualitätsstandard

siehe Umweltpolitik

Environmental Quality Target

see environmental policy

Umweltqualitätsziel

siehe Umweltpolitik

Environmental Report

see strategic environmental assessment (SEA) and binding land-use plan

Umweltbericht

siehe Strategische Umweltprüfung (SUP) und Bebauungsplan

Environmental Risk Analysis

Environmental risk analysis is a method for evaluating the risks of adverse impacts on natural resources in a planning area. Assessment is based on three aggregate factors:

- the intensity of potential impairment
- susceptibility to impairment

Ökologische Risikoanalyse

Die Ökologische Risikoanalyse ist eine Methode zur Einschätzung des Risikos der Beeinträchtigung natürlicher Ressourcen in einem Planungsgebiet. Die Beurteilung erfolgt durch die Bildung der drei Aggregatgrößen:

- Intensität potenzieller Beeinträchtigung

- risk of impairment.

In first place the entities affected by the intrusion (natural factors) are examined, and then the initiators of the impact (use demands). With the aid of relevance trees and argument tables, environmental disturbance intensity and sensitivity are assessed in examining specific cases. The risk of adverse impacts is finally calculated on the basis of these two factors with the aid of a preference matrix.

Environmental risk analysis has long been a standard method for environmental impact studies in traffic and transport planning.

→ evironmental impact assessment, EIA

→ strategic environmental assessment SEA

Equivalence of Living Conditions

The establishment of equivalent living conditions is a prime guideline of federal and state government in the balanced development of their respective territories, and is entrenched as such in Section 1 (2) of the Federal Spatial Planning Act. The aim is to create and maintain standards of living throughout the country which, in keeping with the local context, are equivalent in value. Equivalent does not mean identical, which is neither practicable nor reasonable. Living conditions involve all spheres of life and hence all infrastructure and economic development. In effect, the policy of equivalent living conditions primarily benefits rural areas, since there is usually a greater backlog of structural development in the country than in urban areas. Basically, however, problematic structures can require action to ensure equivalent living conditions in urban agglomerations, too. The discussion on upholding the principle at a time when public resources are limited is one of the chief current issues in spatial planning. The alternative under debate is to concentrate support in growth cores whose dynamics spread to peripheral regions, thus benefiting them indirectly.

→ infrastructure

→ spatial category

→ region

→ agglomeration, conurbation, metropolitan area

→ guideline of spatial planning

- Empfindlichkeit gegenüber Beeinträchtigungen
- Risiko der Beeinträchtigung.

Dabei werden zunächst die Betroffenen (die natürlichen Faktoren), dann die Verursacher (die Nutzungsansprüche) untersucht. Mit Hilfe von Relevanzbäumen und Begründungstabellen wird eine einzelfallorientierte Einschätzung von Beeinträchtigungsintensität und -empfindlichkeit hergeleitet. Das Beeinträchtigungsrisiko wird schließlich aus den beiden vorigen Größen anhand einer Präferenzmatrix ermittelt.

Speziell für Umweltverträglichkeitsstudien in der Verkehrsplanung gilt die Ökologische Risikoanalyse seit langem als Standardmethode. (nach Scholles 2005:102)

→ Umweltverträglichkeitsprüfung

→ Strategische Umweltprüfung

Gleichwertigkeit der Lebensbedingungen(*)

Die Herstellung von gleichwertigen Lebensbedingungen ist eine zentrale Leitvorstellung des Bundes und der Länder zur gleichmäßigen Entwicklung ihrer Teilräume und ist als solche in §1 (2) des Raumordnungsgesetzes verankert. Ziel ist, in allen Teilen des Landes Lebensbedingungen zu schaffen oder zu erhalten, die sich, bezogen auf Gegebenheiten des Teilraumes, in ihrem Wert entsprechen. Gleichwertig heißt damit nicht gleich, was weder machbar noch sinnvoll wäre. Inhaltlich betreffen die Lebensbedingungen alle Lebensbereiche, somit die gesamte Infrastruktur wie auch die wirtschaftliche Entwicklung. Faktisch kommt die Politik der gleichwertigen Lebensbedingungen in erster Linie dem ländlichen Raum zugute, da er im Regelfall strukturellen Nachholbedarf gegenüber den Verdichtungsräumen aufweist. Grundsätzlich kann jedoch bei problematischen Strukturen auch in Verdichtungsräumen Handlungsbedarf im Sinne gleichwertiger Lebensbedingungen gegeben sein. Die Diskussion um die Aufrechterhaltung des Leitbilds in Zeiten knapper öffentlicher Ressourcen ist eine der zentralen aktuellen Fragestellungen der Raumordnung. Als Alternative wird eine Konzentration der Förderinvestitionen auf Wachstumskerne diskutiert, deren Dynamik auch auf periphere Regionen ausstrahlen und diesen so indirekt zugute kommen soll. (nach ARL 2002)

→ Infrastruktur

→ Raumkategorie

→ Region

→ Agglomeration

→ Leitvorstellung der Raumordnung

Evaluation, Audit

Evaluation is generally seen as a matter of auditing plans, programmes, measures and tools with regard to specific criteria, such as content, procedures, outcomes, and costs. The principle focus is usually on determining whether (or to what degree) targets have been met (target performance comparisons, assessing the potential for and direction of further development) and on examining cause/effect relationships (effect chains, case studies, time series, etc.). In both the theory and practice of planning, the prime interest is in assessing the effectiveness of plans, programmes and procedures and in the efficiency of planning measures.

Evaluation, Erfolgskontrolle, Wirkungsanalyse*

Allgemein wird unter Evaluation die Aufgabe verstanden, Planungen, Programme, Projekte, Maßnahmen oder Instrumente unter bestimmten Gesichtspunkten, z.B. hinsichtlich der Inhalte, Verfahrensweisen, Ergebnisse oder Kosten, zu bewerten. Im Vordergrund stehen dabei vorwiegend die Bestimmung der Zielerreichungsgrade (Soll-Ist-Vergleiche, Festlegung der Veränderungspotentiale und Veränderungsrichtungen) sowie die Untersuchung der Ursache-Wirkungs-Zusammenhänge (Wirkungsverläufe, Wirkungsketten, Fallstudien, Zeitreihen etc.). In der Planungswissenschaft und Planungspraxis richtet sich das Augenmerk auf die Wirksamkeit der Pläne, Programme und Verfahren sowie auf die Effizienz planerischer Maßnahmen. (ARL 2003)

Expropriation and Compensation of Expropriation

Expropriation (compulsory purchase) is the complete or partial removal of property rights, the right to own property and the possibility of expropriation being laid down by the Basic Law. Expropriation for urban development purposes is governed by the Federal Building Code. It is the last resort available to a municipality when it requires a particular property, or specific rights attaching to a property in order to attain its urban development aims, and the owner is not prepared to sell the property or to grant the rights in question. The purposes for which the municipality is allowed to resort to expropriation are listed in full in the Federal Building Code. Expropriation is permissible only in the public interest and where the purpose to be served cannot reasonably be achieved by any other means.

Under the Basic Law, expropriation may be ordered only by law or pursuant to a law, the nature and level of compensation also being governed by law. The rules are set out in the Federal Building Code. A claim for compensation may be made by anyone whose rights have been adversely affected by expropriation and who has suffered a financial loss. The Federal Building Code provides three types of compensation: in the form of money, in the form of land, and by the granting of other rights.

→ Federal Building Code

Enteignung und Enteignungsentschädigung*

Enteignung bedeutet die vollständige oder teilweise Entziehung einer Eigentumsposition im Sinne des Grundgesetzes; im Baugesetzbuch ist die Enteignung für städtebauliche Zwecke geregelt. Die Enteignung steht der Gemeinde als letztes Mittel zur Verfügung, wenn sie zur Verwirklichung ihrer städtebaulichen Ziele ein bestimmtes Grundstück oder bestimmte Rechte an einem Grundstück benötigt und der Eigentümer nicht zum Verkauf oder zur Gewährung dieser Rechte bereit ist. Die Zwecke, nach denen eine Enteignung durchgeführt werden kann, sind im Baugesetzbuch abschließend aufgeführt. Eine Enteignung ist nur dann zulässig, wenn das Wohl der Allgemeinheit sie erfordert und der Enteignungszweck auf andere zumutbare Weise nicht erreicht werden kann.

Gemäß dem Grundgesetz darf eine Enteignung nur durch Gesetz oder auf der Grundlage eines Gesetzes erfolgen, das Art und Ausmaß der Entschädigung regelt; diese Regelungen zur Entschädigung werden im Baugesetzbuch getroffen. Entschädigung kann derjenige verlangen, der in seinem Recht durch die Enteignung beeinträchtigt wird und dadurch einen Vermögensnachteil erleidet. Im Baugesetzbuch sind drei Arten von Entschädigungen vorgesehen: die Entschädigung in Geld, die Entschädigung in Land und die Entschädigung durch Gewährung anderer Rechte. (ARL 2003)

→ Baugesetzbuch

Federal and State Sectoral Planning Legislation

Sectoral planning with a significant impact on space and thus on spatial planning is governed by distinct legislation. The most important federal planning acts include the following:

Transport and communication:
- General Railway Act
- Federal Highways Act
- Federal Waterways Act
- Federal Air Traffic Act
- Passenger Transport Act
- Telegraph routes act;

Utilities:
- energy industry act
- waste avoidance, recovery and disposal act
- federal mining act
- federal water act;

Environment and nature conservation
- federal soil protection act
- federal immission control act
- federal nature conservation act
- federals forest act;

Agriculture
- land consolidation act
- act on the joint task "improvement of agrarian structure and coastal preservation"

Federal sectoral planning acts are often concretised by state legislation, for instance state nature conservation acts and state highway legislation.

→ spatially relevant sectoral planning

→ nature conservation

→ transport planning

→ planning approval

Fachplanungsgesetze auf Bundes- und Landesebene(*)

Die wegen ihrer Raumbedeutsamkeit für die Raumplanung wesentlichen Fachplanungen beruhen auf eigenständigen Rechtsgrundlagen. Als wichtigste Fachplanungsgesetze auf Bundesebene sind zu nennen:

für den Verkehr und die Kommunikation:
- Allgemeines Eisenbahngesetz
- Bundesfernstraßengesetz
- Bundeswasserstraßengesetz
- Luftverkehrsgesetz
- Personenbeförderungsgesetz
- Telegrafenwegegesetz;

für die Ver- und Entsorgung:
- Energiewirtschaftsgesetz
- Kreislaufwirtschafts- und Abfallgesetz
- Bundesberggesetz
- Wasserhaushaltsgesetz;

für den Umwelt- und Naturschutz:
- Bundes-Bodenschutzgesetz
- Bundes-Immissionsschutzgesetz
- Bundesnaturschutzgesetz
- Bundeswaldgesetz;

für die Landwirtschaft:
- Flurbereinigungsgesetz
- Gesetz über die Gemeinschaftsaufgabe „Verbesserung der Agrarstruktur und des Küstenschutzes.

Fachplanungsgesetze auf Bundesebene werden häufig durch entsprechende Ländergesetze konkretisiert, so beispielsweise durch die Landesnaturschutzgesetze, die Landeswassergesetze sowie die Straßen- und Wegegesetze der Länder. (nach ARL 2002)

→ Fachplanung

→ Naturschutz

→ Verkehrsplanung

→ Planfeststellung

Federal Building Code

The Federal Building Code is the most important plank of urban development law. It contains four chapters:
- Chapter One: General Urban Planning Law,
- Chapter Two: Special Urban Planning Law,
- Chapter Three: Other Provisions,
- Chapter Four: Transitional and Concluding Provisions.

General urban planning law covers such areas as urban land-use planning, building permission, land reallocation, expropriation and compensation, infrastructure provision and servicing, and nature

Baugesetzbuch(*)

Das Baugesetzbuch (BauGB) ist die wichtigste Grundlage des Städtebaurechts. Das BauGB ist in folgende vier Kapitel gegliedert:
- Erstes Kapitel: Allgemeines Städtebaurecht,
- Zweites Kapitel: Besonderes Städtebaurecht,
- Drittes Kapitel: Sonstige Vorschriften,
- Viertes Kapitel: Überleitungs- und Schlussvorschriften.

Das allgemeine Städtebaurecht enthält insbesondere Aussagen zur Bauleitplanung, zur Zulässigkeit von Vorhaben, zur Bodenordnung, zur Enteignung und Entschädigung, zur Erschließung und zu Maß-

conservation. Special urban planning legislation is concerned principally with urban rehabilitation, urban development and redevelopment, the preservation of physical structures and the specific character of areas, and urban-development enforcement orders. Other provisions deal with valuation, competencies, administrative procedures and planning safeguards.

→ planning law, urban development law

→ Land Utilisation Ordinance

→ nature conservation

nahmen für den Naturschutz. Das besondere Städtebaurecht enthält vornehmlich Regelungen zu städtebaulichen Sanierungsmaßnahmen, den städtebaulichen Entwicklungsmaßnahmen, zum Stadtumbau, zur sozialen Stadt, zur Erhaltungssatzung und zu städtebaulichen Geboten. Die sonstigen Vorschriften beinhalten u.a. Regelungen zur Wertermittlung, zu Zuständigkeiten, zu Verwaltungsverfahren und zur Planerhaltung (nach ARL 2001c).

→ Bauplanungsrecht/Städtebaurecht

→ Baunutzungsverordnung

→ Naturschutz

Federal Highways Act

see transport planning

Bundesfernstraßengesetz

siehe Verkehrsplanung

Federal Nature Conservation Act

see nature conservation

Bundesnaturschutzgesetz

siehe Naturschutz

Federal Planning Authorities

The highest federal authorities in the Federal Republic of Germany are the federal ministries, each led by a federal minister nominated by the federal chancellor and appointed by the federal president. The Federal Ministry of Transport, Building and Urban Development (BMVBS) is responsible for spatial planning. It is also the most important federal government investor, since all federal responsibilities for transport and physical infrastructure are concentrated under its roof A particularly important subordinate higher federal authority within the purview of the BMVBS is the Federal Office for Building and Regional Planning (BBR). The BBR assists the federal government with expert advice on spatial and urban planning, as well as on housing and building. Within the BMVBS, the (standing) Conference of Ministers for Spatial Planning (MKRO) and the Advisory Council on Spatial Planning are two important advisory institutions.

→ federation, federal government

→ Conference of Ministers for Spatial Planning

→ Advisory Council on Spatial Planning

Bundesbehörden für räumliche Planung

Die obersten Bundesbehörden in der Bundesrepublik Deutschland sind die Bundesministerien, denen jeweils ein vom Bundeskanzler vorgeschlagener und vom Bundespräsidenten ernannter Bundesminister vorsteht. Für die Raumordnung in der Bundesrepublik Deutschland ist das Bundesministerium für Verkehr, Bau und Stadtentwicklung (BMVBS) zuständig. Dieses ist gleichzeitig das wichtigste Investitionsressort der Bundesregierung, da in ihm alle Zuständigkeiten des Bundes für verkehrliche und bauliche Infrastrukturen gebündelt sind. Als nachgeordnete Bundesoberbehörde im Geschäftsbereich des BMVBS nimmt das Bundesamt für Bauwesen und Raumordnung (BBR) einen besonderen Stellenwert ein. Das BBR unterstützt die Bundesregierung durch fachlich-wissenschaftliche Beratung in den Bereichen Raumordnung, Städtebau sowie Wohnungs- und Bauwesen. Weiterhin bilden innerhalb des BMVBS die Ministerkonferenz für Raumordnung (MKRO) sowie der Beirat für Raumordnung zwei wichtige Institutionen mit beratender Funktion. (nach Schmidt-Eichstaedt 2005, BMVBS 2006a und BBR 2006a)

→ Bund

→ Ministerkonferenz für Raumordnung (MKRO)

→ Beirat für Raumordnung

Federal Soil Protection Act

see soil conservation

Bundesbodenschutzgesetz(*)

siehe Bodenschutz

Federal Spatial Planning

Since the federalism reform of 2006, the Basic Law assigns competence in spatial planning to the federal government in the context of concurrent legislation (formerly framework legislation). Federal law settles the fundamental issues of spatial planning; the states can derogate from the provisions adopted. Under the Federal Spatial Planning Act as currently amended, the federation is not limited to formal, organisational arrangements but can also lay down substantive spatial planning principles constituting the general, superordinate model for spatial development, planning, and protection of the national territory. An amended version of the Federal Spatial Planning Act is planned following changes in the distribution of competencies between the federal and state governments under the federalism reform.

Over and above the Federal Spatial Planning Act, the federation has legislative and administrative powers in a number of other fields of relevance for spatial planning at the national level (e.g. spatially relevant sectoral planning).

→ federation, federal government

→ state

Bundesraumordnung

Das Grundgesetz weist dem Bund seit der Föderalismusreform 2006 im Rahmen der konkurrierenden Gesetzgebung Kompetenzen für die Materie Raumordnung zu (vorher Rahmengesetzgebung). Bundesrechtlich werden die grundsätzlichen Fragen der Raumordnung geregelt; die Länder können von den Vorschriften abweichende Regelungen treffen. Im aktuell rechtskräftigen Raumordnungsgesetz hat sich der Bund nicht auf formell-organisatorische Regelungen beschränkt, sondern auch materielle Raumordnungsgrundsätze normativ festgelegt, die insgesamt das generelle, übergeordnete Leitbild für die räumliche Entwicklung, Ordnung und Sicherung des Bundesgebietes darstellen. Eine aktualisierte Fassung des Raumordnungsgesetz nach den veränderten Kompetenzverteilungen zwischen Bund und Länder durch die Föderalismusreform ist geplant.

Neben dem Raumordnungsgesetz ist der Bund in einer Reihe von weiteren Sachgebieten, die für die Raumordnung des Bundesgebietes von Bedeutung sind (z.B. raumwirksame Fachplanungen), sowohl gesetzgeberisch als auch administrativ tätig. (ARL 2003)

→ Bund

→ Land, Bundesland

Federal Spatial Planning Act

The Federal Spatial Planning Act is a federal act containing provisions on the conditions, functions, and guideline of spatial planning. Legislative competence is vested in the federation.

The Federal Spatial Planning Act is divided into four parts:

- Part 1 contains all the general provisions which apply directly to spatial planning at the federal and state levels. They cover the function, guideline, and principles of spatial planning and definitions of key terms; they also establish the binding effect of spatial planning requirements.
- Part 2 assigns powers to the federation to pass framework legislation to guide spatial planning in the states, and, as well as setting out the rules to be observed in drawing up spatial structure plans, provides the instruments for securing spatial planning requirements. Being framework legislation, this part requires filling out by state law. Part 2 also establishes the power to issue ordinances.
- Part 3 regulates spatial planning at the federal level and introduces the duty of mutual notification and consultation between federal and state governments. Particular emphasis is given to the role played by federal-level spatial planning as the

Raumordnungsgesetz, Bundesraumordnungsgesetz(*)

Das Raumordnungsgesetz ist ein Bundesgesetz, das Vorgaben zu Bedingungen, Aufgaben und Leitvorstellungen der Raumordnung enthält. Die Gesetzgebungskompetenz liegt beim Bund.

Das Raumordnungsgesetz ist in vier Abschnitte mit unterschiedlichen Regelungsbereichen untergliedert:

- Abschnitt 1 enthält diejenigen Vorschriften, die allgemein und unmittelbar für die Raumordnung in Bund und Ländern gelten. Diese umfassen die Aufgabe, die Leitvorstellung und die Grundsätze der Raumordnung, wichtige Begriffsbestimmungen sowie die Bindungswirkungen der Erfordernisse der Raumordnung.
- Abschnitt 2 legt die rahmenrechtlichen Vorgaben des Bundes für die Raumordnung in den Ländern fest und umfasst neben den Vorschriften über die Raumordnungspläne die Instrumente zur Sicherung der Erfordernisse der Raumordnung. Als Rahmenrecht bedarf dieser Abschnitt der Umsetzung durch Landesrecht. Darüber hinaus enthält dieser Abschnitt eine Ermächtigung zum Erlass von Rechtsverordnungen.
- Abschnitt 3 regelt die Raumordnung im Bund einschließlich der gegenseitigen Unterrichtung und

link between state spatial planning and EU planning.
- Part 4 covers the usual transitional and concluding provisions.

→ federation, federal government
→ guideline of spatial planning
→ spatial planning
→ spatial structure plan
→ state spatial planning

gemeinsamen Beratung im Bund-Länder-Verhältnis. Dabei wird insbesondere auch die Aufgabe der Raumordnung des Bundes als Bindeglied zwischen der Landesplanung und der Raumordnung im europäischen Rahmen verdeutlicht.
- Abschnitt 4 enthält die üblichen Überleitungs- und Schlussvorschriften. (nach ARL 2003)

→ Bund
→ Leitvorstellungen der Raumordnung
→ Raumordnung
→ Raumordnungsplan
→ Landesplanung

Federal Transport Infrastructure Plan

see transport planning

Bundesverkehrswegeplan

siehe Verkehrsplanung

Federation, Federal Government

In the Federal Republic of Germany, the term Bund ("Federation") is used to refer to central government as opposed to the component states ("Länder"). This division of government into federal and state levels is the result of the federal constitution of Germany. Although the states how their own governments, administrations, and courts, sovereignty at international law is vested solely in the federation. The distribution of competencies and sovereign rights between the federation and the states is laid down by the Basic Law. The most important constitutional organs at the federal level are the Bundesrat (Federal Council), the Bundestag (Parliament), the Federal Chancellor, the Federal Government, and the Federal Constitutional Court. The administrative institutions of the federation are the federal ministries (government departments) The ministry responsible for spatial planning is the Federal Ministry of Transport, Building and Urban Development.

→ state
→ municipality, local authority
→ federal planning authorities

Bund(*)

In der Bundesrepublik Deutschland bezeichnet „Bund" die Zentralinstanz gegenüber den einzelnen Gliedstaaten, den Ländern. Diese Trennung des Staates in eine Bundesebene und Landesebene ist bedingt durch das deutsche Staatsmodell des Föderalismus. Die Bundesländer besitzen zwar eine eigene Regierung, Administration und Gerichtsbarkeit, doch ausschließlich der Zentralstaat hat völkerrechtliche Souveränität. Die Abgrenzung der Kompetenzen und Hoheitsrechte zwischen Bund und Ländern ist im Grundgesetz festgelegt. Die wichtigsten Verfassungsorgane auf Bundesebene sind der Bundesrat, der Bundestag, der Bundespräsident, der Bundeskanzler, die Bundesregierung und das Bundesverfassungsgericht. Verwaltungseinrichtungen des Bundes sind die Bundesministerien. Das mit Raumplanung befasste Ministerium ist das Bundesministerium für Verkehr, Bau und Stadtentwicklung. (nach ARL 2003)

→ Land
→ Gemeinde
→ Bundesbehörden für räumliche Planung

Fiscal Equalisation

The fiscal equalisation system regulates the distribution of expenditure and revenues between the various levels of the hierarchy of a federal state with its territorial authorities (federation, states, local authorities). The equalisation process corrects the "regular" distribution of funds. A distinction is made between horizontal equalisation, which regulates the distribution between territorial units of the same status (e.g. among states and among local authorities), and vertical equalisation, which regulates distribu-

Finanzausgleich(*)

Der Finanzausgleich ergänzt die finanzverfassungsrechtliche Verteilung der Einnahmen zwischen den Ebenen eines föderativen Staates mit seinen Gebietskörperschaften (Bund, Länder und Kommunen). Durch den Ausgleich wird die „reguläre" Verteilung der Mittel korrigiert. Es ist zu unterscheiden zwischen dem horizontalen Finanzausgleich, der einen Ausgleich zwischen gleichrangigen Gebietskörperschaften regelt (zwischen den Ländern: Länderfinanzausgleich, zwischen den Gemeinden:

tion between the various levels of government (e.g. between federal and state governments). The fiscal equalisation system was introduced as a means of achieving the constitutional goal of creating equivalent living conditions throughout the country.

→ federation, federal government
→ state
→ municipality, local authority
→ equivalence of living conditions

kommunaler Finanzausgleich) und dem vertikalen Finanzausgleich. Dieser regelt den Ausgleich zwischen verschiedenen gebietskörperschaftlichen Ebenen (z.B. zwischen Bund und Ländern). Der Finanzausgleich dient dem Verfassungsziel, gleichwertige Lebensverhältnisse im ganzen Bundesgebiet herzustellen. (nach ARL 2003)

→ Bund
→ Land
→ Gemeinde
→ Gleichwertigkeit der Lebensbedingungen

Framework Development Plan

A framework development plan is an informal master plan intended to eliminate or mitigate potential conflicts through cooperative processes in the run-up to legally binding planning. In the planning hierarchy, the framework development plan comes between the urban land-use plans – the preparatory land-use plan (Flächennutzungsplan) and the binding land-use plan or binding land-use plan (Bebauungsplan). It specifies development goals for an urban area. It sets design, organisational, and use objectives that are, however, not legally binding. The early and comprehensive involvement of the parties affected by planning is sought to facilitate later implementation of the binding land-use plan and its integration in the urban development context. The framework development plan therefore provides a suitable framework and guidelines for flexible and citizen-focused planning. Moreover, the framework development plan helps higher public authorities in evaluating, supporting, and approving urban development planning and measures, and provides public agencies and investors with information about the intentions of the municipality.

→ informal planning
→ preparatory land-use plan
→ binding land-use plan
→ urban land-use planning

Städtebaulicher Rahmenplan

Ein städtebaulicher Rahmenplan ist ein informelles Planwerk, mit dem Zweck, im Vorfeld der rechtsverbindlichen Planung durch kooperative Prozesse mögliche Konflikte zu beseitigen oder auszugleichen. Der städtebauliche Rahmenplan ordnet sich in der Planungshierarchie zwischen die Bauleitpläne - den Flächennutzungsplan und den Bebauungsplan - ein. Er dient der Konkretisierung der Entwicklungsziele für einen städtischen Teilbereich. Dabei werden gestalterische, ordnende und auf Nutzungen bezogene Ziele festgelegt, jedoch ohne rechtsverbindlichen Charakter. Durch das frühzeitige und umfassende Einbeziehen der von den Planungen Betroffenen soll die spätere Umsetzung der Bebauungspläne und ihre Einfügung in den städtebaulichen Kontext erleichtert werden. Dadurch bildet der städtebauliche Rahmenplan einen geeigneten Handlungs- und Orientierungsrahmen für eine flexible und bürgernahe Planung. Außerdem dient der städtebauliche Rahmenplan als Entscheidungshilfe für übergeordnete Behörden bei der Beurteilung, Förderung und Genehmigung städtebaulicher Planungen und Maßnahmen sowie der Information für Träger öffentlicher Belange und Investoren über die Absichten der Gemeinde. (nach ISL o.J. und RVR o.J.)

→ Informelle Planung
→ Flächennutzungsplan
→ Bebauungsplan
→ Bauleitplanung

Freight Centre and Logistics Centre

Freight centres bring carriers, logistics firms, and services together in one place, usually a location with particularly good transport links. Freight centres should be located at intersections of at least two (and preferably more) modes of transport, and at a point where transfer is possible between local and long-distance transport. An essential requirement for any freight centre is a transhipment facility to allow

Güterverkehrszentrum und Güterverteilzentrum*

Mit einem Güterverkehrszentrum (GVZ) erfolgt die lokale Zusammenführung von Verkehrs-, Logistik- und Dienstleistungsunternehmen an einem verkehrsgünstig gelegenen Standort. Im Hinblick auf die Verkehrsgunst sollte ein Güterverkehrszentrum an der Schnittstelle möglichst vieler (mindestens zweier) Verkehrsträger sowie an einer Schnittstelle zwischen Nah- und Fernverkehr liegen. Weitere Vor-

combined road, rail, and possibly inland waterway transport. Companies participating in a freight centre are independent and equal in status.

Logistics centres, by contrast, combine a number of forwarding agents in an overall organisation; the individual firms renounce their legal and economic independence. A logistics centre provides not only transport and transhipment facilities, but also a number of additional services, such as scheduling, sorting and warehousing. The locational prerequisites for freight centres are not as important for logistics centres.

aussetzung ist das Vorhandensein einer Umschlaganlage für den kombinierten Verkehr Straße/Schiene/ggf Binnenverkehr. Die an einem Güterverkehrszentrum partizipierenden Unternehmen sind selbständig und gleichrangig.

Anders dagegen das Güterverteilzentrum, bei dem es zu einem Zusammenschluss von Speditionen zu einer einheitlichen Organisation kommt; dieser erfolgt unter Aufgabe der rechtlichen und wirtschaftlichen Selbständigkeit der Einzelbetriebe. Mit dem Güterverteilzentrum entsteht eine Speditionsanlage, die neben Transport und Umschlag auch weitere Dienstleistungen anbietet, so z.B. Disposition, Sortierung und Lagerung. Die oben für die Güterverkehrszentren beschriebenen Voraussetzungen hinsichtlich der Verkehrsgunst sind für Güterverteilzentren nicht zwingend. (nach ARL 2003)

General Right of Pre-Emption

see right of pre-emption

allgemeines Vorkaufsrecht

siehe Vorkaufsrecht

General Transprot Plan

see general transprot plan

Generalverkehrsplan

siehe Verkehrsplanung

German Industrial Standards (DIN)

German industrial standards (DIN standards) are set by the German Standards Institute and published in the form of standard sheets. Where they are concerned with building, they are considered to be generally accepted standards of engineering and building. To some extent the highest building supervisory authorities have given them binding force by means of official publication. They can be introduced as mandatory standards, guidelines, or recommendations, and often serve to elucidate indeterminate legal concepts in legislation. The two DIN standards which are of particular relevance for the field of urban development are DIN 4109 (on noise insulation in buildings) and DIN 18005 (noise prevention in urban development). The latter also contains important guidance for the land-use area planning.

DIN-Norm(*)

DIN-Normen werden vom Deutschen Normenausschuss aufgestellt und in Normblättern veröffentlicht. Soweit sie das Bauwesen betreffen. gelten sie als allgemein anerkannte Regeln der Technik und Baukunst. Zum Teil werden sie von den obersten Bauaufsichtsbehörden oder den von diesen bestimmten Behörden durch öffentliche Bekanntmachung verbindlich eingeführt. Sie können als Pflichtnormen, Richtlinien oder Hinweise eingeführt werden und dienen oft der Konkretisierung der unbestimmten Rechtsbegriffe der Gesetze. Für den Bereich des Städtebaus sind insbesondere die DIN-Normen 4109 (Schallschutz im Hochbau) und 18005 (Schallschutz im Städtebau) von Bedeutung. Für die Planung von Baugebieten enthält die DIN 18005 wichtige Hinweise. (nach ARL 2003)

Goals of Spatial Planning

Together with the spatial planning clauses, the goals of spatial planning constitute the most important tool for enforcing supra-local interests in spatial planning. As defined by the Federal Spatial Planning Act, they are binding stipulations on the development, structure and securing of a defined area, as contained in spatial structure plans in the form of definitive spatial and substantive designations by state

Ziele der Raumordnung(*)

Ziele der Raumordnung sind zusammen mit den Raumordnungsklauseln das wichtigste Instrument zur Durchsetzung der überörtlichen Belange in der Raumordnung. Sie sind gemäß Raumordnungsgesetz verbindliche Vorgaben in Form von räumlich und sachlich bestimmten oder bestimmbaren, vom Träger der Landes- oder Regionalplanung abschließend abgewogenen textlichen oder zeichnerischen

or regional planning authorities expressed in textual and cartographic form. Spatial planning goals are to be identified as such in the spatial structure plan and must be strictly complied with in planning and measures affecting spatial structures by all public bodies and planning authorities. This duty of compliance excludes the circumvention of spatial planning goals on the basis of other considerations.

→ spatial planning clauses
→ spatial planning requirements
→ principles of spatial planning
→ procedure for derogation from spatial planning goals and for amending spatial planning goals
→ spatial structure plan

Festlegungen in Raumordnungsplänen zur Entwicklung, Ordnung und Sicherung des Raumes. Ziele der Raumordnung sind im Raumordnungsplan als solche zu kennzeichnen und entfalten eine strikte Beachtungspflicht (Zielbeachtungspflicht) gegenüber raumbedeutsamen Planungen und Maßnahmen von allen öffentliche Stellen bzw. Planungsträgern. Die Beachtungspflicht schließt es aus, Ziele der Raumordnung im Wege von Abwägungen oder Ermessensentscheidungen zu überwinden. (nach ARL 2003)

→ Raumordnungsklauseln
→ Erfordernisse der Raumordnung
→ Grundsätze der Raumordnung
→ Zielabweichungsverfahren/ Zieländerungsverfahren
→ Raumordnungsplan

Green Belt and Green Break/Divide

Green belts and smaller, supplementary green breaks and divides are tools in regional planning to safeguard open spaces.

A regional green belt is a continuous expanse of land reserved for ecological functions or recreational purposes and accordingly forbidden for settlement or other functionally incompatible uses.

Green breaks or divides are smaller protected open spaces areas close to settlements to be kept free of development for local recreational purposes and in order to break up densely built-up areas. Green breaks should link up with the open countryside and act as a climatic corridor and habitat, as both refuge and exchange area for plants and animals.

→ regional planning
→ landscape planning
→ open space planning

Grünzug und Grünzäsur(*)

Grünzüge und die kleinräumigeren, die Grünzüge ergänzenden Grünzäsuren sind regionalplanerische Ordnungsinstrumente zur Freiraumsicherung.

Ein regionaler Grünzug ist ein zusammenhängender Bereich, der für unterschiedliche ökologische Funktionen oder für die Erholung gegenüber einer Besiedlung oder gegenüber anderen funktionswidrigen Nutzungen gesichert werden soll.

In Ergänzung zu den regionalen Grünzügen werden teilweise Grünzäsuren, auch Trenngrün genannt, ausgewiesen. Dieser eher kleinräumige Bereich wird für siedlungsnahe Erholungsfunktionen und zur Gliederung dicht zusammenliegender Siedlungsgebiete festgelegt. Grünzäsuren sollen in Verbindung zur freien Landschaft stehen, als Klimaschneisen und Lebensraum sowie Rückzugs- und Austauschgebiet für Pflanzen und Tiere dienen. (nach ARL 2002 und 2003)

→ Regionalplanung
→ Landschaftsplanung
→ Freiraumplanung

Green Structures Policy and Green Structures Plan

Green structures policies are framed by local authorities and encompass the entire range of landscape management and nature conservation measures for cities, towns, and villages. In the framework of urban development, the purpose of the green structures policy is to organise and protect all green spaces and green elements, in both spatial and functional terms, in relation to one another and to physical structures in the pursuit of intellectual and physical well-being.

Grünordnung und Grünordnungsplan*

Die Grünordnung bezeichnet die Gesamtheit der Maßnahmen für die Landschaftspflege und den Naturschutz in Städten und Dörfern als Aufgabenbereich der Gemeinden. Aufgabe der Grünordnung ist es, die räumliche und funktionelle Ordnung und Sicherung aller Grünflächen und Grünelemente zueinander und zu den baulichen Anlagen im Zusammenhang mit der städtebaulichen Entwicklung, wie es zum geistigen und körperlichen Wohlbefinden des

The green structures plan is the instrument through which green structures policy is implemented. It is a sectoral plan for nature conservation and landscape management with the status of a binding land-use plan, and consists of plans and written text setting out measures and policy goals. The plan has a number of functions. It serves as a site-related design plan for inner-city green spaces, as an instrument to safeguard open space, as a planning instrument to structure and assign functions to areas on which building is not permitted, and as a planning instrument to implement the goals and principles of nature conservation and landscape management. Rules governing green structures plans are to be found in a number of state nature conservation acts.

→ nature conservation
→ landscape management
→ landscape planning
→ federal and state sectoral planning legislation
→ binding land-use plan

Guideline of Spatial Planning

According to the Federal Spatial Planning Act, the guideline of spatial planning is to achieve sustainable spatial development which will bring the social and economic demands made on an area into line with its ecological functions and result in a stable order which will be well-balanced on a large scale. The guideline of sustainable spatial development is set out in the Federal Spatial Planning Act under eight heads (including protection and development of the natural bases of life in Germany, creation of the locational prerequisites for economic development, enhancement of the characteristic diversity of individual regions, the establishment of equivalent living conditions in all regions). This guideline of spatial planning is to be seen as both a precept for action in the execution of the spatial planning function, and as a maxim to guide the interpretation and application of the principles of spatial planning.

→ spatial planning
→ Federal Spatial Planning Act
→ sustainability, sustainable spatial development
→ principles of spatial planning

Guideline Value

In the present context, guideline values (planning targets, guide values and target figures) are numerical values for a particular planning area expressing

Menschen erforderlich ist, anzustreben.

Das Planungsinstrument der Grünordnung ist der Grünordnungsplan. Er ist ein Fachplan des Naturschutzes und der Landschaftspflege auf der Ebene des Bebauungsplanes. In ihm sollen die Maßnahmen und Absichten der Grünordnung durch Texte und Zeichnungen dargestellt werden. Dem Grünordnungsplan obliegen verschiedene Aufgaben. Er soll als objektbezogener Gestaltungsplan innerstädtischer Grünflächen, Sicherungsinstrument von Freiflächen, Planungsinstrument zur Funktionszuweisung und Strukturierung für die nicht zu überbauenden Flächen und als Planungsinstrument zur Verwirklichung der Ziele und Grundsätze des Naturschutzes und der Landschaftspflege fungieren. Regelungen zum Grünordnungsplan werden in verschiedenen Landesnaturschutzgesetzen getroffen. (ARL 2003)

→ Naturschutz
→ Landschaftspflege
→ Landschaftsplanung
→ Fachplanung
→ Bebauungsplan

Leitvorstellung der Raumordnung*

Leitvorstellung der Raumordnung ist gemäß Raumordnungsgesetz eine nachhaltige Raumentwicklung, welche die sozialen und wirtschaftlichen Ansprüche an den Raum mit seinen ökologischen Funktionen in Einklang bringt und zu einer dauerhaften und großräumigen Ordnung führt. Die zentrale Leitvorstellung einer nachhaltigen Raumentwicklung wird im Raumordnungsgesetz durch acht Teilaspekte verdeutlicht (u. a. Schutz und Entwicklung der natürlichen Lebensgrundlagen in Deutschland, Schaffung von Standortvoraussetzungen für die wirtschaftliche Entwicklung, Stärkung der prägenden Vielfalt der Teilräume, Herstellung gleichwertiger Lebensverhältnisse in allen Teilräumen). Die Leitvorstellung ist zugleich Handlungsmaxime bei der raumordnerischen Aufgabenwahrnehmung und Auslegungs- und Anwendungsmaxime für die Grundsätze der Raumordnung. (ARL 2003)

→ Raumordnung
→ Raumordnungsgesetz
→ Nachhaltigkeit, nachhaltige Raumentwicklung
→ Grundsätze der Raumordnung

Richtwert, Richtzahl, Orientierungswert*

Richtzahlen, Richtwerte und Orientierungswerte sind planerische Vorgaben für die in einem Planungsraum anzustrebende oder zu erwartende

the desired or anticipated development of population size, jobs, housing, human settlements and of infrastructure endowment. Some states also set guideline values for nature conservation and environmental protection; for example, for increasing the proportion of woodland in an area, or designating land for creating a habitat network system. Guideline values may be binding targets or serve simply as guidance for a defined period and permit a certain amount of latitude. They are a common standard to be applied by all public planning authorities.

→ elements of spatial planning

→ nature conservation

→ public planning agency/authority

Guiding Principles for Spatial Development

Pursuant to the Federal Spatial Planning Act and in collaboration with state spatial planning authorities, the competent federal ministry develops guiding principles on the basis of spatial structure plans for the spatial development of the country as a whole or for areas extending beyond the borders of single states. These guiding principles are informal in nature and are intended to help specify the principles of spatial planning with regard to territorial and substantive scope for the purpose of coordinating federal government and EU planning and activities. In a discussion process, the guiding principles are to be adapted and updated to satisfy current conditions. Guiding principles have been formulated and cartographically visualised in, for example, the 1993 "Guidelines for Regional Policy" and the 1996 "Framework for Action in Spatial Planning Policy." In June, 2006, the Conference of Ministers for Spatial Planning (MKRO) adapted the "Guiding Principles and Strategies for Spatial Development in Germany" to provide guidance for joint federal/state action. The three guiding principles of "growth and innovation," "securing the provision of essential public services," and "conserving resources, developing cultural landscapes" describe spatial planning priorities for the coming years.

→ Conference of Ministers for Spatial Planning

→ framework for action in spatial planning policy

→ provision of essential public services

zahlenmäßige Entwicklung der Bevölkerung, der Arbeitsplätze, des Wohnungsbaus, der Siedlungsflächen oder der Infrastrukturausstattung. Darüber hinaus legen einige Länder aber auch Richtzahlen, Richtwerte und Orientierungswerte für den Bereich des Natur- und Umweltschutzes fest, so z. B. für die Erhöhung des Waldanteils oder die benötigte Fläche zur Schaffung eines Biotopverbundsystems. Richtzahlen, Richtwerte und Orientierungswerte werden als verbindliche Zahlen oder als Orientierungswerte mit Bandbreiten als Zielprojektion für einen bestimmten Zeitraum festgelegt. Sie sollen als einheitliche Grundlage von den öffentlichen Planungsträgern verwendet werden. (ARL 2003)

→ Planungselemente der Raumordnung und Landesplanung

→ Naturschutz

→ Öffentliche Planungsträger

Leitbilder der räumlichen Entwicklung(*)

Auf der Grundlage des Raumordnungsgesetzes hat das für die Raumordnung zuständige Bundesministerium in Zusammenarbeit mit den Raumordnungsbehörden der Länder auf der Grundlage der Raumordnungspläne Leitbilder der räumlichen Entwicklung des Bundesgebietes oder für über die Länder hinausgreifende Zusammenhänge zu entwickeln. Die Leitbilder sind informeller Natur und sollen dazu beitragen, die Grundsätze der Raumordnung für die Abstimmung der raumbedeutsamen Planungen und Maßnahmen des Bundes und der Europäischen Union räumlich und sachlich zu konkretisieren. In einem Diskussionsprozess sollen die Leitbilder nach Maßgabe aktueller Rahmenbedingungen angepasst und fortentwickelt werden. Leitbilder wurden z. B. im Raumordnungspolitischen Orientierungsrahmen von 1993 und im Raumordnungspolitischen Handlungsrahmen von 1996 formuliert und kartographisch visualisiert. Zur Fortschreibung hat im Juni 2006 die Ministerkonferenz für Raumordnung (MKRO) „Leitbilder und Handlungsstrategien für die Raumentwicklung in Deutschland" als Richtschnur für das gemeinsame Handeln der Raumordnung von Bund und Ländern verabschiedet. Die drei Leitbilder „Wachstum und Innovation", „Daseinsvorsorge sichern" und „Ressourcen bewahren, Kulturlandschaften gestalten" beschreiben die Aufgabenschwerpunkte der Raumordnung in den nächsten Jahren. (nach ARL 2003 und BMVBS 2006b)

→ Ministerkonferenz für Raumordnung

→ Raumordnungspolitischer Orientierungs- und Handlungsrahmen

→ Daseinsvorsorge

Habitat Network System

The general purpose of the habitat network system is to preserve the totality of wild fauna and flora in protected biotopes for each natural landscape area. The size and geographical distribution of biotopes must ensure the lasting preservation of viable populations To achieve this, habitat network systems require a combination of the following measures:

- large areas of land with priority nature conservation status as the core of the system;
- the interconnection of habitats by means of linear or island landscape structures (corridors and stepping-stone biotopes);
- the extensivisation of all land uses, especially in agriculture.

According to the Federal Nature Conservation Act, the states in Germany are to establish a cross-state network of interlinked habitats covering at least 10% of the territory of each state.

In view of the ongoing destruction of natural habitats and the resulting dramatic disappearance of animal and plant species, the creation of a habitat network system can be considered one of the most urgent tasks for nature conservations and landscape management.

→ nature conservation

Biotopverbundsystem(*)

Generelles Ziel des Biotopverbundsystems ist es, über zu sichernde Biotope für jeden Naturraum die Gesamtheit aller wild wachsenden Pflanzen und wild lebenden Tierarten zu erhalten. Größe und Verteilung der Biotope im Raum müssen so bemessen sein, dass die Erhaltung lebensfähiger Populationen auf Dauer gewährleistet wird. Zur Realisierung eines Biotopverbundsystems ist entsprechend dieser generellen Zielsetzung eine zwingende Kombination folgender Maßnahmen notwendig:

- Sicherung großer Flächen mit Naturvorrangfunktion als Kernstücke des Systems;
- Vernetzung von Lebensräumen durch geeignete lineare oder flächige Landschaftsstrukturen (Korridor- und Trittsteinbiotope);
- Extensivierung der Nutzungen auf allen Flächen, vor allem in der Landwirtschaft.

Gemäß dem Bundesnaturschutzgesetz sollen in Deutschland die Länder ein länderübergreifendes Netz verbundener Biotope schaffen, das mindestens 10 % der Landesfläche umfasst.

Die Schaffung eines Biotopverbundsystems kann angesichts der andauernden Zerstörung naturnaher Lebensräume und des damit einhergehenden dramatischen Rückgangs an Tier- und Pflanzenarten als eine der dringendsten Aufgaben des Naturschutzes und der Landschaftspflege angesehen werden. (nach ARL 2003)

→ Naturschutz

Heritage Management

see conservation of historic monuments

Denkmalpflege

siehe Denkmalschutz

Impact Mitigation Charge

see impact mitigation regulation

Ausgleichsabgabe

siehe Eingriffsregelung

Impact Mitigation Regulation

The impact mitigation provisions of the Federal Nature Conservation Act, state nature conservation legislation, and the Federal Building Code all stipulate that the instigator of any intrusion is required to desist from any unnecessary damage to nature and the landscape, and to take mitigation and replacement measures compatible with nature and landscape conservation within a stated period of time to make good any unavoidable damage. Encroachments on nature and landscape within the meaning of the Federal Nature Conservation Act are changes in the form or use of areas or changes in the watertable contiguous

Eingriffsregelung(*)

Die Eingriffsregelung ist eine im Bundesnaturschutzgesetz, in den Landesnaturschutzgesetzen sowie im Baugesetzbuch verankerte Regelung, nach welcher der Verursacher eines Eingriffs verpflichtet ist, vermeidbare Beeinträchtigungen von Natur und Landschaft zu unterlassen sowie unvermeidbare Beeinträchtigungen innerhalb einer zu bestimmenden Frist durch Maßnahmen des Naturschutzes und der Landschaftspflege auszugleichen (Ausgleichs- und Ersatzmaßnahmen). Eingriffe in Natur und Landschaft im Sinne des Bundesnaturschutzgesetzes sind Veränderungen der Gestalt oder Nutzung von

to the living soil which can considerably impair the efficiency and functioning of the ecosystem or the visual quality of the landscape. Such encroachment is to be prohibited if impairment cannot be avoided or cannot be sufficiently mitigated, and the interests of nature and landscape conservation take priority in weighing requirements.

As the legal position now stands, impact mitigation measures need not necessarily be carried out at the site of the intrusion itself nor at the same time. Under the Federal Nature Conservation Act, an intrusion is deemed to be mitigated if after completion no substantial or permanent impairment of the ecosystem remains and the visual quality of the landscape has been appropriately restored or redesigned. Where the encroachment on nature or the landscape cannot be mitigated, and where, as the outcome of a weighing process, the interests of intrusive development are given precedence over the interests of nature conservation, the instigator of the intervention may be required to undertake replacement measures to compensate for the unmitigated impairment caused. Unlike mitigation, replacement is not required to establish a similar state but only an equivalent one. Some states have imposed impact mitigation charges. Local authorities can also hold compensatory sites in a so-called eco-account, thus accumulating a deposit of mitigation and replacement measures before or during the preparation of preparatory and binding land-use plans which is then "spent" in the event of unavoidable intrusions.

→ weighing of interests

→ nature conservation

→ Federal Building Code

Grundflächen von Grundflächen oder Veränderungen des mit der belebten Bodenschicht in Verbindung stehenden Grundwasserspiegels, die die Leistungs- und Funktionsfähigkeit des Naturhaushalts oder das Landschaftsbild erheblich beeinträchtigen können. Der Eingriff ist zu untersagen, wenn die Beeinträchtigungen nicht zu vermeiden oder nicht im erforderlichen Maße auszugleichen sind und die Belange des Naturschutzes und der Landschaftspflege bei der Abwägung aller Anforderungen an Natur und Landschaft Vorrang haben.

Der Ausgleich muss nach geltender Rechtslage nicht unbedingt am Ort des Eingriffs selbst erfolgen und kann auch zeitlich vom Eingriff entkoppelt sein. Als ausgeglichen ist der Eingriff gemäß BNatSchG anzusehen, wenn nach seiner Beendigung keine erheblichen oder nachhaltigen Beeinträchtigungen des Naturhaushaltes zurückbleiben und das Landschaftsbild landschaftsgerecht wiederhergestellt oder neu gestaltet ist. Können die Eingriffe in Natur und Landschaft nicht ausgeglichen werden und setzen sich die für das eingreifende Vorhaben sprechenden Belange gegenüber den Belangen des Naturschutzes im Rahmen der Abwägung durch, dann können Ersatzmaßnahmen des Verursachers zur Kompensation des nicht ausgleichbaren Eingriffs verlangt werden. Anders als Ausgleichsmaßnahmen müssen Ersatzmaßnahmen keinen gleichartigen, sondern nur einen gleichwertigen Zustand schaffen. Daneben sehen verschiedene Landesgesetze die Erhebung von Ausgleichsabgaben vor. Die Gemeinden haben ferner die Möglichkeit in einem sog. Ökokonto Ausgleichsflächen vorsorglich herzurichten und somit ein Guthaben von Ausgleichs- und Ersatzmaßnahmen vor oder bei der Aufstellung der Flächennutzungs- und Bebauungspläne „anzusparen", das bei unvermeidbaren Eingriffen abgetragen wird. (nach ARL 2003)

→ Abwägung der Belange

→ Naturschutz

→ Baugesetzbuch

Informal Planning

The planning approaches which are generally described as "informal" are characterised by non-formalised and non-binding procedures, and by their focus on achieving a consensus. With the rise in the number of conflicts occurring over the use of land and the increasing complexity of planning procedures, there has been a steady growth in interest since the mid-1970s in the use of informal approaches to planning. As far as possible, they aim to eliminate or resolve conflicts consensually and on a co-operative basis prior to the initiation of formal and legally binding planning procedures. Informal approaches also facilitate later planning action by involving stakeholders in all aspects of the scheme

Informelle Planung(*)

Informelle Planung bezeichnet nicht formalisierte, nicht verbindliche sowie konsensorientierte Planungsverfahren. Das Interesse an ihr hat seit Mitte der 1970er Jahre aufgrund der Zunahme räumlicher Konflikte und durch die wachsende Kompliziertheit und Komplexität der rechtlichen Planungsverfahren zugenommen. Informelle Planung hat das Ziel, im Vorfeld der rechtsverbindlichen Planung durch kooperative Prozesse mögliche Konflikte zu beseitigen oder auszugleichen. Weiterhin wird durch das frühzeitige und umfassende Einbeziehen der Betroffenen die spätere Umsetzung planerischen Handelns erleichtert. Die Raumplanung in Deutschland verfügt bereits auf allen Planungsebenen über informel-

very early in the process. Informal approaches are in use at all levels of spatial planning in Germany.

→ moderation and mediation
→ public participation
→ spatial monitoring
→ framework for action in spatial planning policy and spatial planning policy guidelines
→ regional development strategy
→ city network
→ framework development plan

Infrastructure

Infrastructure is the totality of material, institutional, and personnel facilities and factors contributing to the functioning of the economy (firms, households, public authorities). It consists of generally available, necessary preparatory input and services for production and consumption, provided partly by the public sector. "Technical infrastructure" includes facilities for traffic and transport, energy, water, waste management, and communications. "Social infrastructure" includes facilities for education, culture, health, recreation and leisure. In a broader sense, one can also speak of immaterial infrastructure, meaning people's performance potential in an economy ("human capital"). Since, in many cases, infrastructure yields no direct profits but provides the basis for profit-oriented, economic activities, its provision and maintenance is traditionally regarded as a task of government. Since the 1990s, much public infrastructure has been privatised, although government has mostly retained its planning powers. The provision of infrastructure is a necessary but not sufficient condition for the economic development of regions. The comprehensive provision of essential infrastructure for all sections of the population is a political objective which demands governmental co-financing even in privatised markets. In periods of growth or shrinkage, the infrastructure needs to be adapted to the changing needs of the population.

→ spatial disparities
→ equivalence of living conditions

Inner Zone Bye-Law

see inner zone

le Planungsansätze. (nach ARL 2003)

→ Moderation, Mediation
→ Öffentlichkeitsbeteiligung
→ Raumbeobachtung
→ Raumordnungspolitischer Handlungsrahmen/ Orientierungsrahmen
→ Regionales Entwicklungskonzept
→ Städtenetze
→ städtebaulicher Rahmenplan

Infrastruktur

Infrastruktur ist die Gesamtheit der materiellen, institutionellen und personellen Einrichtungen und Gegebenheiten, die der arbeitsteiligen Wirtschaft (Unternehmen, Haushaltungen, Behörden) zur Verfügung stehen. Es handelt sich um allgemein verwendbare notwendige Vorleistungen für Produktion und Konsum, die teilweise von öffentlicher Seite bereitgestellt werden. Als „technische Infrastruktur" gelten Anlagen des Verkehrs, der Energie-, Wasser- und Abfallwirtschaft und der Nachrichtenübermittlung. Als „soziale Infrastruktur" bezeichnet man dagegen Einrichtungen für Bildung, Kultur, Gesundheit und Freizeit. Im weiteren Sinne wird auch von immaterieller Infrastruktur gesprochen, unter dieser versteht man die Leistungspotentiale der Menschen in einer Volkswirtschaft (das „Humankapital"). Da Infrastruktur in vielen Fällen keinen direkten Gewinn abwirft, aber die Grundlage für gewinnorientiertes wirtschaftliches Handeln darstellt, wird ihre Bereitstellung und Unterhaltung traditionell als Aufgabe des Staates angesehen. Seit den 1990er Jahren kam es vielfach zu Privatisierungen öffentlicher Infrastruktur, wobei sich der Staat jedoch meist die Planungshoheit vorbehielt. Eine Ausstattung mit Infrastruktur ist eine notwendige, aber keine hinreichende Voraussetzung für die wirtschaftliche Entwicklung von Regionen. Eine flächendeckende und alle Bevölkerungsgruppen erreichende Grundversorgung mit notwendiger Infrastruktur ist Ziel der Politik, was auch in privatisierten Märkten eine staatliche Mitfinanzierung erfordert. In Perioden des Wachstums oder Schrumpftums ist die Infrastruktur an die veränderten Bedürfnisse der Bevölkerung anzupassen. (nach Frey 2005)

→ Disparitäten, räumliche
→ Gleichwertigkeit der Lebensbedingungen

Innenbereichssatzung

siehe Innenbereich, im Zusammenhang bebauter Ortsteil

Inner Zone, Built-Up Area

The inner zone covers those parts of the municipal territory which are largely given over to built development, but which are not covered by a qualified binding land-use plan. For an area to be counted as part of the inner zone it must display a pattern of connected development and be recognisable as part of a community. The presence of undeveloped sites is not necessarily to be seen as a sign of lack of connected development if the existing development still creates the impression of being a built-up area or of belonging to a community. In the present context, a community (Ortsteil) is defined as a cluster of developments within the territory of a municipality which, by virtue of the number of buildings it contains, has a certain significance or identity and represents an example of organic settlement structure. Within built-up areas a development project is permissible only where, in terms of the type and scale of use for building, the coverage type and the plot area to be built on, the building proposal blends with the characteristic features of its immediate environment and the provision of local public infrastructure has been secured. The requirements of healthy living and working conditions must be satisfied; the overall appearance of the locality must not be impaired. Municipalities may designate the boundaries of the inner zone by bye-law. Furthermore, the municipality may, under certain circumstances, adopt bye-laws including certain developed, undesignated outlying areas (outer zones) in inner zones. These bye-laws, which may be combined, are referred to as inner-zone bye-laws (Innenberichsatzungen).

→ binding land-use plan
→ building use category
→ density of built use
→ outer zone, undesignated outlying areas

Innenbereich, im Zusammenhang bebauter Ortsteil(*)

Innenbereich nennt man die überwiegend baulich genutzten Gebiete einer Gemeinde, für die kein qualifizierter Bebauungsplan besteht. Voraussetzung für die Zuordnung zum Innenbereich ist eine tatsächlich aufeinander folgende Bebauung und Zugehörigkeit zu einem Ortsteil. Unbebaute Flächen unterbrechen den Bebauungszusammenhang nicht, wenn die aufeinander folgende Bebauung trotzdem den Eindruck von Geschlossenheit oder Zugehörigkeit vermittelt. Unter einem Ortsteil wird jedes Bebauungsgefüge im Gebiet einer Gemeinde verstanden, das nach der Anzahl der vorhandenen Bauten ein gewisses Gewicht besitzt und Ausdruck einer organischen Siedlungsstruktur ist. Vorhaben innerhalb der im Zusammenhang bebauten Ortsteile sind dann zulässig, wenn sie sich nach Art und Maß der baulichen Nutzung, der Bauweise und der Grundstücksfläche, die überbaut werden soll, in die Eigenart der näheren Umgebung einfügen und die Erschließung gesichert ist. Dabei müssen die Anforderungen an gesunde Wohn- und Arbeitsverhältnisse gewahrt bleiben und das Ortsbild darf nicht beeinträchtigt werden. Die Gemeinde kann die Grenzen für die im Zusammenhang bebauten Ortsteile per Satzung festlegen. Darüber hinaus können per Satzung durch die Gemeinde unter bestimmten Voraussetzungen einzelne bebaute Außenbereichsflächen in die im Zusammenhang bebauten Ortsteile einbezogen werden. Diese Satzungen, die miteinander kombinierbar sind, werden als Innenbereichssatzungen bezeichnet. (nach ARL 2003)

→ Bebauungsplan
→ Art der baulichen Nutzung
→ Maß der baulichen Nutzung
→ Außenbereich

Intermunicipal Co-Operation, Regional Co-Operation

Intermunicipal cooperation is joint action by local territorial authorities, i.e. by municipalities, towns and cities (whether county-free or belonging to counties), and counties to attain common goals and perform common functions. Cooperation can relate to neighbourhoods, to relations between cities and surrounding areas, or to regions. Important fileds of intermunicipal cooperation are spatial planning, technical infrastructure, utility services, public transport, as well as environmental protection, culture, health, and welfare. A relatively new and still rare form of cooperation is the intermunicipal industrial

Interkommunale Zusammenarbeit, Regionale Kooperation(*)

Interkommunale Kooperation bezeichnet die Zusammenarbeit von Gebietskörperschaften, also von Gemeinden, kreisangehörigen oder kreisfreien Städten sowie Kreisen zur Realisierung gemeinsamer Ziele und Aufgaben. Die Kooperation kann nachbarschaftsbezogen, Stadt-Umland-geprägt oder regionalorientiert sein. Wichtige Aufgabenfelder der interkommunalen Zusammenarbeit liegen im Bereich der Raumplanung, der technischen Infrastruktur wie Ver- und Entsorgung, des öffentlichen Personennahverkehrs sowie im Bereich Umweltschutz, Kultur, Gesundheitswesen und Fürsorge.

estate. Such industrial estates are jointly developed and taxed by several local authorities.

Many legal forms are available for intermunicipal cooperation: the transfer of function performance to a municipality by association agreement, informal (non-mandatory) forms of cooperation like consortia and regional conferences, joint function performance by a private-law company or by a special corporation under public law (→ ad hoc/special purpose association). The basis for intermunicipal cooperation is laid down in state legislation pertaining to joint local-authority functions.

In some urban regions, municipalities have been committed to intermunicipal cooperation in associations of cities and surrounding regions set up by state law with the aim of mitigating the impact of suburbanisation. The tasks assigned to such "mandatory associations" can include joint land-use and spatial planning or joint responsibility for important regional facilities. Owing to strong interdependencies within urban regions, the public interest in the region requires a shift from isolated action taking into account solely the development of the single community to an overall, regional view, accepting certain restrictions in local authority autonomy in exchange.

→ agglomeration, conurbation, metropolitan area
→ suburbanisation
→ planning association
→ ad hoc/ spezial purpose association (of local authorities)

Eine relativ neue und bisher seltene Kooperationsform sind interkommunale Gewerbegebiete. Diese Gewerbegebiete werden von mehreren Kommunen gemeinsam entwickelt und besteuert.

Für interkommunale Zusammenarbeit stehen zahlreiche Rechtsformen zur Verfügung: Übertragung der Aufgabenerfüllung an eine Gemeinde mittels Anschlussvertrag, informelle (freiwillige) Kooperationsformen wie Arbeitsgemeinschaften und Regionalkonferenzen, gemeinsame Aufgabenerfüllung im Sinne einer Gesellschaft privaten Rechts oder die Aufgabenwahrnehmung durch eine besondere Körperschaft des öffentlichen Rechts (→ Zweckverband). Die Grundlagen der interkommunalen Kooperation sind in den Gesetzen über die kommunale Gemeinschaftsarbeit (GKG) der Länder geregelt.

In manchen Stadtregionen wurden die Gemeinden durch einen per Landesgesetz gegründeten Stadt-Umland-Verband zur interkommunalen Kooperation verpflichtet, um schädlichen Auswirkungen der Suburbanisierung entgegenzuwirken. Aufgaben solcher „Zwangsverbände" sind etwa gemeinsame Flächennutzungs- oder Regionalplanung oder die gemeinsame Trägerschaft regional bedeutsamer Einrichtungen. Aufgrund der starken wechselseitigen Verflechtungen innerhalb von Stadtregionen erscheint es im Sinne des regionalen Gemeinwohls erforderlich, von einem isoliert die Entwicklung der Einzelgemeinde betrachtenden Handeln („Kirchturmpolitik") zu einer gesamtregionalen Sichtweise überzugehen und dafür gewisse Einschränkungen des kommunalen Selbstverwaltungsrechts in Kauf zu nehmen. (nach ARL 2003 und Gawron 2005)

→ Agglomeration
→ Suburbanisierung
→ Planungsverbände
→ Zweckverband

Intermunicipal Industrial Estate

see intermunicipal co-operation, regional co-operation

Interkommunale Gewerbegebiete

siehe interkommunale Zusammenarbeit, regionale Kooperation

Joint Responsibilities

The Basic Law requires the federal government to participate in a number of areas in the discharge of tasks incumbent on the states, provided that such responsibilities are important to society as a whole and that federal participation is necessary for the improvement of living conditions (joint tasks). The Basic Law defines the following joint tasks*:*

1. improvement of regional economic structures,
2. improvement of the agrarian structure and of coastal preservation.

Gemeinschaftsaufgaben(*)

Auf der Grundlage des Grundgesetzes wirkt der Bund auf bestimmten Gebieten bei der Erfüllung von Aufgaben der Länder mit, wenn diese Aufgaben für die Gesamtheit bedeutsam sind und die Mitwirkung des Bundes zur Verbesserung der Lebensverhältnisse erforderlich ist (Gemeinschaftsaufgaben). Folgende Gemeinschaftsaufgaben werden durch das Grundgesetz festgelegt:

1. Verbesserung der regionalen Wirtschaftsstruktur,

Joint tasks are defined in greater detail by federal legislation. Such legislation contains general principles on how joint responsibilities are to be discharged and stipulates both rules of procedure and the institutionalisation of joint framework planning.

One joint task particularly relevant to spatial planning is the "improvement of regional economic structures". This is the key instrument available to the federal and state governments in promoting regional economic development. The main aim in this area is to encourage private-sector investment and investment in complementary business-related infrastructure capable of creating new – or safeguarding existing – long-term employment opportunities in structurally weak regions.

A second important joint task is the "improvement of agricultural structure and coastal protection". The central goal is to ensure an efficient agricultural and forestry sector equipped to meet future demands and able to compete effectively in common market of the EU, and to improve coastal protection The shift in responsibility for agricultural structure and regional policy from the national to the EU level has led to a decline in the importance of joint federal/state tasks in Germany.

→ development programme

→ regional policy:

→ economic development aid

→ federation, federal government

→ state

2. Verbesserung der Agrarstruktur und des Küstenschutzes.

Die Gemeinschaftsaufgaben werden durch Bundesgesetze näher bestimmt. Diese Gesetze enthalten allgemeine Grundsätze über die Erfüllung der Gemeinschaftsaufgaben und treffen Bestimmungen über das Verfahren und über Einrichtung für gemeinsame Rahmenplanungen.

Von besonderer Bedeutung für die Raumplanung ist die Gemeinschaftsaufgabe „Verbesserung der regionalen Wirtschaftsstruktur". Diese Gemeinschaftsaufgabe ist das zentrale Instrument von Bund und Ländern für die regionale Wirtschaftsförderung. Hauptaufgabe ist die Förderung von Investitionen der gewerblichen Wirtschaft und von Investitionen in die komplementäre wirtschaftsnahe Infrastruktur zur Schaffung neuer bzw. Sicherung vorhandener Dauerarbeitsplätze in strukturschwachen Regionen.

Weiterhin von Bedeutung ist die Gemeinschaftsaufgabe „Verbesserung der Agrarstruktur und des Küstenschutzes". Zentrales Ziel dieser Gemeinschaftsaufgabe ist es, eine leistungsfähige, auf künftige Anforderungen ausgerichtete Land- und Forstwirtschaft zu gewährleisten und ihre Wettbewerbsfähigkeit im gemeinsamen Markt der Europäischen Union zu ermöglichen sowie den Küstenschutz zu verbessern. Die Verlagerung von nationalen Kompetenzen in der Agrar- und Regionalpolitik auf die EU-Ebene sowie die Beihilfekontrollpolitik der EU haben zu einem Bedeutungsverlust der Gemeinschaftsaufgaben geführt. (nach ARL 2003)

→ Förderprogramme

→ Regionalpolitik

→ Wirtschaftsförderung

→ Bund

→ Land

Judical Review Proceedings

Judicial review proceedings are undertaken by the courts on request. A distinction is made between abstract judicial review, in which the validity of a law is examined independent from concrete cases, and concrete judicial review in which the court rules on the validity of the norm in examining the case at hand.

Judicial review addresses not only issues of material appropriateness but also compliance with superordinate laws and regulations. The plaintiff is entitled to take action only if directly affected. Private persons cannot therefore take legal action against spatial structure plans, since such plans cannot infringe individual rights under public law because, unlike binding land-use plans, they do not involve any direct

Normenkontrollverfahren

Normenkontrollverfahren werden auf Antrag von den Gerichten durchgeführt. Man unterscheidet die abstrakte Normenkontrolle (in der nur die betreffende Norm gerichtlich geprüft wird) und die inzidente Normenkontrolle im Verlauf eines sonstigen Prozesses, in dem es auf die Gültigkeit der betreffenden Norm ankommt.

In der Normenkontrolle werden nicht Fragen der inhaltlichen Zweckmäßigkeit geprüft werden, sondern die Einhaltung von übergeordneten Gesetzen und Vorschriften. Voraussetzung für eine Klageberechtigung ist die unmittelbare Betroffenheit. So können Privatpersonen nicht gegen Raumordnungspläne klagen, da sie in subjektiv-öffentlichen Rechten nicht verletzt sein können, weil den genannten Plänen - im

reorganisation of land holdings. Potential plaintiffs are territorial authorities like municipalities, because they are bound by spatial structure planning.

→ bye-law
→ ordinance
→ territorial authority
→ spatial structure plan
→ binding land-use plan
→ State Spatial Planning Act

Unterschied z.B. zu einem Bebauungsplan - eine unmittelbare bodenordnende Wirkung nicht zukommt. Als Klägerinnen kommen Gebietskörperschafen, etwa die Gemeinden in Frage; denn sie sind durch Festsetzungen gebunden. (nach ARL 2002)

→ Satzung
→ Verordnung
→ Gebietskörperschaft
→ Raumordnungsplan
→ Bebauungsplan
→ Landesplanungsgesetz

Judicial Review

see judicial review proceedings

Normenkontrolle

siehe Normenkontrollverfahren

Labour-Market Region

see region

Arbeitsmarktregion

siehe Region

Land Assembly

see land reallocation

Umlegung

siehe Bodenordnung

Land Law

The term “land law” encompasses the totality of the legal provisions relating to land. Under the Basic Law, the federal government has concurrent legislative powers in the field of land law, i.e. the states are entitled to legislante in this area as long as, and to the extent that, the federation has not done so. The Federal Constitutional Court has limited the legislative powers of the federation to those aspects of land law which are enshrined in planning law (urban development law); the states have retained legislative competence for building regulations or building control law.

→ planning law, urban development law
→ building regulations, building control law

Bodenrecht*

Das Bodenrecht umfasst alle Vorschriften, die Grund und Boden zum Gegenstand rechtlicher Ordnung haben. Dem Grundgesetz der Bundesrepublik Deutschland entsprechend hat der Bund für den Bereich des Bodenrechts die Kompetenz zur konkurrierenden Gesetzgebung, d.h. die Länder haben die Befugnis zur Gesetzgebung, solange und soweit der Bund von seinem Gesetzgebungsrecht keinen Gebrauch macht. Das Bundesverfassungsgericht beschränkte die Gesetzgebungskompetenz des Bundes auf denjenigen Bereich des Bodenrechts, der im Bauplanungsrecht verankert ist, wohingegen die Gesetzgebungskompetenz für das Bauordnungsrecht bei den Ländern verbleibt. (ARL 2003)

→ Bauplanungsrecht/Städtebaurecht
→ Bauordnungsrecht/Bauaufsichtsrecht

Land Management

Land management is the term generally given to the combination of governmental and consensual tools for ensuring that land is used in a manner that conserves resources and satisfying needs. Land management seeks to combine these tools into an integrated planning process in the pursuit of a sustainable land-use and settlement policy. Adequate building land is made available to meet needs, while

Flächenmanagement(*)

Unter Flächenmanagement wird allgemein die Kombination von hoheitlichen und konsensualen Instrumenten zur Realisierung einer ressourcenschonenden und bedarfsgerechten Bodennutzung verstanden. Flächenmanagement zielt darauf ab, diese Instrumente im Sinne einer nachhaltigen Flächen- und Siedlungspolitik in einem integrierten Planungsprozess miteinander zu verbinden. Damit wird einer-

the development of hitherto open spaces is reduced. In view of progressive land take in one place while large areas fall vacant elsewhere, a frugal use needs to be made of land at all levels of spatial planning ("land-resource policy"). In its National Sustainability Strategy, the federal government calls for the reduction of land take for settlement and transport purposes. At the state and local government levels, information systems (registers) are to be developed as a substantive prerequisite for careful and frugal land management.

One aim of land management is to establish a closed cycle system, a cyclical process of planning, use, discontinuation of use, vacancy, and re-use. A key substrategy is land recycling, finding new uses for sites that are no longer or not optimally used. The inner development of a community is thus given priority over outer development, limiting settlement sprawl.

→ urban redevelopment

→ derelict site, vacant site, brownfield site

→ urban sprawl

Land Recycling

see land management

Land Reallocation

The Federal Building Code regulates land reallocation by means of land assembly and the adjustment of plot boundaries. The purpose of reallocating land is to create plots suitable in terms of location, shape and size for building or other uses.

Land assembly is a land-swap procedure governed by public law. The purpose of this procedure, which may be applied within the area covered by a binding land-use plan or in a built-up area, is to reorganise or open up specific areas of both developed and undeveloped land. A land assembly procedure is ordered and executed by the municipality whenever and as soon as this is required to implement the binding land-use plan or when necessary for reasons of orderly urban development in built-up areas. The properties affected are first pooled; then vehicular and pedestrian areas, as well as green spaces are deducted, and the remaining area redivided among

seits bedarfsadäquates Bauland bereitgestellt und andererseits zugleich die Neuinanspruchnahme von Freiflächen reduziert. Angesichts fortschreitender Flächeninanspruchnahme mit gleichzeitigem Brachfallen großer Areale an anderer Stelle erscheint auf allen Ebenen der räumlichen Planung ein haushälterischer Umgang mit Boden notwendig („Flächenhaushaltspolitik"). Die Bundesregierung hat in ihrer Nationalen Nachhaltigkeitsstrategie die Reduktion der Flächeninanspruchnahme für Siedlungs- und Verkehrszwecke formuliert. Auf Landes- und kommunaler Ebene soll mit dem Aufbau von Informationssystemen (Katastern) eine inhaltliche Vorleistung zum haushälterischen Flächenmanagement getroffen werden.

Eine Zielsetzung des Flächenmanagements sollte die Etablierung einer Flächenkreislaufwirtschaft sein, die sich als zyklischer Prozess von Planung, Nutzung, Nutzungsaufgabe, Brachliegen und Wiedereinbringen der Flächen versteht. Wesentliche Teilstrategie dieses Flächenkreislaufs ist das Flächenrecycling, durch welches nicht mehr oder nicht optimal genutzte Flächen einer neuen Nutzung zugeführt werden. Dadurch wird der Innenentwicklung einer Gemeinde Vorrang vor der Außenentwicklung gegeben und somit die flächige Ausbreitung der Siedlungen begrenzt. (nach BBR 2004, Löhr/Wiechmann 2005, ARL 2001c)

→ Bestandsentwicklung

→ Brachfläche

→ Zersiedlung

Flächenrecycling

siehe Flächenmanagement

Bodenordnung(*)

Das Baugesetzbuch regelt die Bodenordnung durch Umlegung. Ziel der Bodenordnung ist es, durch die Neuordnung von Grundstücksgrenzen nach Lage, Form und Größe zweckmäßig gestaltete Grundstücke für die bauliche oder sonstige Nutzung zu schaffen.

Die Umlegung ist ein öffentlich-rechtliches Grundstückstauschverfahren mit dem Ziel zur Erschließung oder Neugestaltung bestimmter Gebiete mit bebauten und unbebauten Grundstücken im Geltungsbereich eines Bebauungsplans oder im Zusammenhang bebauter Ortsteile (sog. Innenbereich). Die Umlegung wird von der Gemeinde angeordnet und durchgeführt, wenn und sobald sie zur Verwirklichung eines Bebauungsplanes oder aus Gründen einer geordneten städtebaulichen Entwicklung innerhalb im Zusammenhang bebauter Ortsteile erforderlich ist. Dabei werden die Grundstücke zusammengelegt, sodann die Verkehrs- und Grün-

property owners. In principle, they should receive properties equal in value to the original. Where this proves impossible they receive compensation.

The adjustment of plot boundaries is a condensed and simplified type of replotting procedure which (unlike land assembly) is generally applied to a relatively small number of adjacent properties. The purpose of this procedure is to facilitate planned and orderly development, including the provision of public infrastructure, or to eliminate conditions which contravene building law within the area covered by a binding land-use plan or within a built-up area. The adjustment procedure may only be applied in cases where the plots and parts of plots are not suitable for independent development.

→ Federal Building Code

→ property, site, parcel, lot, plot

→ binding land-use plan

→ inner zone, built-up area

flächen abgesondert und die verbleibende Fläche auf die beteiligten Grundeigentümer verteilt. Diese sollen grundsätzlich gleichwertige Grundstücke erhalten. Ist dies nicht möglich, so werden sie durch Ausgleichsbeträge abgefunden.

Die ebenfalls im BauGB geregelte vereinfachte Umlegung ist ein reduziertes Umlegungsverfahren, welches im Gegensatz zur Umlegung regelmäßig nur einzelne, nahe beieinanderliegende Grundstücke erfasst. Ziel ist es, eine ordnungsgemäße Bebauung und Erschließung oder die Beseitigung baurechtswidriger Zustände im Geltungsbereich eines Bebauungsplans oder innerhalb der im Zusammenhang bebauten Ortsteile herbeizuführen. Voraussetzung für die Anwendung der vereinfachten Umlegung ist, dass die Grundstücke und Grundstücksteile nicht selbständig bebaubar sind. (nach ARL 2003)

→ Baugesetzbuch

→ Gründstück

→ Bebauungsplan

→ Innenbereich, im Zusammenhang bebauter Ortsteil

Land Register

The public land register maintained by the local court (Amtsgericht) contains entries for all of the properties within the jurisdiction of the court including details of all legal relationships attaching to each property, e.g. details of ownership and of any charges on the property. The entry (or "sheet") for each property records changes in ownership as well as any new charges on the property. The land register serves to safeguard real estate transactions; everyone can rely on the completeness and correctness of entries.

→ property, site, parcel, lot, plot

→ land survey register

Grundbuch*

Das beim Amtsgericht geführte Grundbuch enthält ein Verzeichnis aller Grundstücke des jeweiligen Zuständigkeitsbereichs einschließlich der Rechtsverhältnisse an diesem Grundstück, so z.B. den zugehörigen Eigentümer oder möglicherweise auf dem Grundstück liegende Belastungen. Für jedes Grundstück wird ein Grundbuchblatt angelegt, auf dem jeder Eigentümerwechsel oder jede Belastung eingetragen werden muss. Das Grundbuch dient der Sicherung des Grundstücksverkehrs; jeder kann sich auf die Vollständigkeit und Richtigkeit der Grundbucheintragungen verlassen. (ARL 2003)

→ Grundstück

→ Liegenschaftskataster

Land Survey Register

The land survey register is a record in book and map form of real estate situated within the territory of a municipality, i.e. of properties and their main constituents, maintained for legal, administrative, economic and statistical purposes. The unit of record in the land survey register is the "plot" (Flurstück); a property (Grundstück) may consist of more than one plot. Land survey registers are increasingly held in digital form as automatised land survey maps and automatised land survey books. They serve to safeguard property ownership and real estate transactions.

Liegenschaftskataster(*)

Das Liegenschaftskataster enthält den Nachweis der Liegenschaften einer Gemeinde, d.h. der Grundstücke mit ihren wesentlichen Bestandteilen, in Büchern und Karten, wie es die Bedürfnisse des Rechtsverkehrs, der Verwaltung, der Wirtschaft und der Statistik erfordern. Die Buchungseinheit des Liegenschaftskatasters ist das Flurstück, mehrere Flurstücke zusammen ergeben ein Grundstück. Liegenschaftskataster werden zunehmend digital als Automatisierte Liegenschaftskarte (ALK) und Automatisiertes Liegenschaftsbuch (ALB) geführt und dienen der Eigentumssicherung und der Sicherheit

→ land register
→ property, site, parcel, lot, plot

im Grundstücksverkehr. (nach ARL 2003)
→ Grundbuch
→ Grundstück

Land-Use Areas for Specific Types of Use

see building use category

Baugebiet

siehe Art der baulichen Nutzung

Land Utilisation Ordinance

The Federal Ministery for Spatial Planning, Building and Urban Development has issued an ordinance on the utilisation of land for building (Land Utilisation Ordinance) pursuant to the Federal Building Code regulating the use of land for building purposes. This ordinance is the most important element in German building and planning law. It regulates the representation and designation of building use categories, the density of built use, methods and design, and permissible lot coverage. It thus supplements the provisions of the Federal Building Code on urban land-use planning and building permission.

→ building use category
→ density of built use
→ binding land-use plan
→ preparatory land-use plan

Baunutzungsverordnung(*)

Aufgrund einer Ermächtigung im Baugesetzbuch hat der für Raumordnung zuständige Bundesminister eine Verordnung über die bauliche Nutzung der Grundstücke, die Baunutzungsverordnung (BauNVO) erlassen. Die BauNVO ist die wichtigste Rechtsverordnung im Bereich des Bau- und Planungsrechtes in Deutschland. Sie enthält im Wesentlichen Vorschriften über die Darstellung und Festsetzung von Art und Maß der baulichen Nutzung, der Bauweise und der überbaubaren Grundstücksflächen. Sie ergänzt damit die Regelungen des Baugesetzbuches über die Bauleitplanung und die Zulässigkeit von Vorhaben. (nach ARL 2001a)

→ Art der baulichen Nutzung
→ Maß der baulichen Nutzung
→ Bebauungsplan
→ Flächennutzungsplan

Land Value

see valuation

Bodenwert

siehe Wertermittlung

Land-Resource Policy

see land management, land recycling

Flächenhaushaltspolitik

siehe Flächenmanagement, Flächenrecycling

Landscape Conservation and Landscape Conservation Support Plan

Landscape management is the totality of activities for protecting and developing the sustainable use of natural assets, and the diversity, distinctive character, and beauty of nature and landscape.

The landscape management support plan sets out nature-conservation and landscape-management measures in textual and cartographic form. The purpose of the plan is to compensate for any project-related disturbance to the proper functioning of the interaction between natural systems and landscape quality which cannot be avoided or corrected by technical means. This development mitigation plan is the out-

Landschaftspflege und landschaftspflegerischer Begleitplan*

Landschaftspflege ist die Gesamtheit der Maßnahmen zum Schutz und zur Entwicklung der nachhaltigen Nutzungsfähigkeit der Naturgüter sowie der Vielfalt, der Eigenart und Schönheit von Natur und Landschaft.

Der landschaftspflegerische Begleitplan ist eine textliche und kartographische Darstellung der Maßnahmen des Naturschutzes und der Landschaftspflege. Diese Maßnahmen zielen darauf ab, vorhabensbedingte Funktionsstörungen im Wirkungsgefüge von Naturhaushalt und Landschaftsbild, die sich durch bestimmte technische Ausgestaltungen des Vorhabens

come of a planning process (development mitigation planning) and is legally an integral part of the respective sectoral plan.

nicht vermeiden oder beheben lassen, zu kompensieren. Der landschaftspflegerische Begleitplan ist das Ergebnis eines Planungsprozesses (landschaftspflegerische Begleitplanung) und ist (rechtlich) Bestandteil des jeweiligen Fachplans. (ARL 2003)

Landscape Conservation Area

Landscape conservation areas have legally binding protected status, which is conferred when an area warrants special protection is needed to maintain or restore the efficient functioning of natural systems or the viable use of natural resources, or because of its special importance for recreation.

Landscape conservation areas enjoy a significantly lower level of protection than nature conservation areas and national parks. In contrast to nature conservation areas, their main purpose is to protect cultural (man-made) landscapes.

→ nature conservation
→ nature conservation area, nature reserve
→ national park
→ cultural landscape
→ protected status

Landschaftsschutzgebiet*

Landschaftsschutzgebiete sind rechtsverbindlich festgesetzte Gebiete, in denen ein besonderer Schutz von Natur und Landschaft zur Erhaltung oder Wiederherstellung der Leistungsfähigkeit des Naturhaushalts oder der Nutzungsfähigkeit der Naturgüter wegen der Vielfalt, Eigenart oder Schönheit des Landschaftsbildes oder wegen ihrer besonderen Bedeutung für die Erholung erforderlich ist.

Landschaftsschutzgebiete weisen im Vergleich zu Naturschutzgebieten und Nationalparken einen wesentlich abgeschwächten Flächenschutz auf Durch Landschaftsschutzgebiete werden im Gegensatz zu Naturschutzgebieten vor allen Dingen Kulturlandschaften geschützt. (ARL 2003)

→ Naturschutz
→ Naturschutzgebiet
→ Nationalpark
→ Kulturlandschaft
→ Unterschutzstellung

Landscape Management Support Plan

see landscape conservation

landschaftspflegerischer Begleitplan

siehe Landschaftspflege

Landscape Outline Plan

see landscape plan

Landschaftsrahmenplan

siehe Landschaftsplanung

Landscape Plan

see landscape planning

Landschaftsplan

siehe Landschaftsplanung

Landscape Planning

Landscape planning was formally introduced as at the federal level in 1976 in the Federal Nature Conservation Act on the model of nature conservation legislation already in force in a number of states. It is a cross-sectional planning instrument for attaining the goals of nature conservation and landscape management in both settled and non-settled areas. Like comprehensive spatial planning, landscape planning covers the entire territory, being divided into three levels:

Landschaftsplanung(*)

Das Instrument Landschaftsplanung wurde 1976 nach dem Vorbild einiger Landesnaturschutzgesetze durch das Bundesnaturschutzgesetz eingeführt. Hierbei handelt es sich um ein raumbezogenes, querschnittsorientiertes Planungsinstrument zur Verwirklichung der Ziele von Naturschutz und Landschaftspflege in besiedelter und unbesiedelter Landschaft. Analog zur räumlichen Gesamtplanung ist die Landschaftsplanung flächendeckend und grundsätzlich in drei Planungsstufen unterteilt:

1. landscape programme (dealing with the territory of a state),
2. landscape outline plan (dealing with a region),
3. landscape plan (dealing with the territory of a municipality).

The term "landscape planning" is also used to refer to the various processes leading to the production of a landscape programme, a landscape outline plan, or a landscape plan.

The landscape programme covers the entire territory of a state and sets out supra-local requirements and the measures to be undertaken in the interests of nature conservation and landscape management in accordance with the principles and goals of spatial planning. However, the Federal Nature Conservation Act allows a good deal of latitude regarding the precise manner in which landscape planning is to be organised; this has in fact allowed some states (including the city-states) to dispense with separate landscape programmes.

The landscape programme covers sections of the state territory (regions), setting out supra-local requirements and the measures to be undertaken in the interests of nature conservation and landscape management in accordance with the goals of spatial planning.

The landscape plan, which consists of textual and a cartographic components, lays down local requirements and the measures for attaining the goals of nature conservation and landscape management. Landscape plans are to be prepared whenever and wherever this is in the interests of nature conservation and landscape management. Under the Federal Nature Conservation Act, landscape plans are required to describe and assess the current and desirable future state of nature and landscapes and to lay down the necessary measures to be taken. In preparing land-use plans, full account has to be taken of landscape plans during weighing public and private interests stipulated for urban land-use plans.

→ nature conservation

→ principles of spatial planning

→ goals of spatial planning

Landscape Programme

see landscape plan

Land-Use Areas for General Types of Use

see building use category

1. Landschaftsprogramm (enthält Darstellungen für den Bereich eines Landes),
2. Landschaftsrahmenplan (enthält Darstellungen für den Bereich einer Region),
3. Landschaftsplan (enthält Darstellungen für den Bereich einer Gemeinde).

Als Landschaftsplanung wird auch der Planungsprozess bezeichnet, dessen Ergebnis die Erstellung eines Landschaftsprogramms, Landschaftsrahmenplans oder Landschaftsplans ist.

Im Landschaftsprogramm werden für den Bereich eines Landes die überörtlichen Erfordernisse und Maßnahmen zur Verwirklichung der Ziele des Naturschutzes und der Landschaftspflege unter Beachtung der Grundsätze und Ziele der Raumordnung dargestellt. Das Bundesnaturschutzgesetz bietet Handlungsspielraum zur Ausgestaltung der Landschaftsplanung, aufgrund dessen einige Länder sowie die Stadtstaaten auf die gesonderte Aufstellung von Landschaftsprogrammen verzichteten.

In den Landschaftsrahmenplänen werden für Teile des Landes (Regionen) die überörtlichen Erfordernisse und Maßnahmen zur Verwirklichung der Ziele des Naturschutzes und der Landschaftspflege unter Beachtung der Grundsätze und Ziele der Raumordnung und Landesplanung dargestellt.

Im Landschaftsplan werden die der örtlichen Erfordernisse und Maßnahmen zur Verwirklichung der Ziele des Naturschutzes und der Landschaftspflege textlich und kartographisch dargestellt. Landschaftspläne sind aufzustellen, sobald und soweit dies aus Gründen des Naturschutzes und der Landschaftspflege erforderlich ist. Der Landschaftsplan enthält gemäß Bundesnaturschutzgesetz Darstellungen des vorhandenen Zustandes von Natur und Landschaft und seine Bewertung sowie des angestrebten Zustandes von Natur und Landschaft und der dafür erforderlichen Maßnahmen. Bei der Aufstellung von Bauleitplänen sind im Rahmen der Abwägung öffentlicher und privater Belange u. a. die Darstellungen in den Landschaftsplänen gebührend zu berücksichtigen. (nach ARL 2003)

→ Naturschutz

→ Grundsätze der Raumordnung

→ Ziele der Raumordnung

Landschaftsprogramm

siehe Landschaftsplanung

Baufläche

siehe Art der baulichen Nutzung

Law Relating to the Procurement of Planning Services

In keeping with European law, public contracts are awarded in accordance with differentiated regulatory regimes. This is also the case with regard to planning services. These regimes include the Contracting Procedures for Building Works (VOB), the Contracting Procedures for Services (VOL), the Contracting Procedures for Professional Services (VOF), the Regulation of the Award of Public Contracts (VgV), and the Fee Schedule for Architects and Engineers (HOAI). The VOB regulates contracting for building services. Building services are works of every type by which a physical structure or installation is produced, maintained, altered, or removed. Planning service contracts, in contrast, are mostly awarded in accordance with the VOF or VOL. The VOF (Contracting Procedures for Professional Services) applies with respect to contracts for services rendered in the course of independent professional activities or offered in competition with free-lance professionals and which involve tasks which cannot be unambiguously and exhaustively specified in advance, as well as the threshold contract values laid down by the Regulation on the Award of Public Contracts are reached or exceeded. The VOL (Contracting Rules for Services) applies with regard to supplies and services that are not within the ambit of the VOB or the VOF. The Regulation on the Award of Public Contracts 2006 contains a number of provisions on the procedure to be followed in awarding and reviewing public contracts over the threshold values in Europe-wide contracting. The regulation obliges the contracting authority to apply the procedure above a certain contract value. The Fee Schedule for Architects and Engineers (HOAI) governs the remuneration of architectural and engineering services. It contains rules on calculating fees on the basis of basic services and special services.

Vergaberecht für Planungsdienstleistungen

In Umsetzung der europarechtlichen Vorgaben erfolgt die Vergabe öffentlicher Aufträge grundsätzlich nach differenzierten Regelwerken, dem so genannten Vergaberecht. Dies gilt auch für Planungsdienstleistungen. Zu unterscheiden ist danach insbesondere zwischen der VOB, der VOL, der VOF, der Vergabeverordnung – VgV sowie der HOAI. Die VOB ist die Vergabe- und Vertragsordnung für Bauleistungen. Bauleistungen sind Arbeiten jeder Art, durch die eine bauliche Anlage hergestellt, in Stand gehalten, geändert oder beseitigt wird. Die Vergabe von Planungsdienstleistungen erfolgt demgegenüber zumeist nach der VOF oder nach der VOL. Die VOF (Verdingungsordnung für freiberufliche Leistungen) findet Anwendung auf die Vergabe von Leistungen, die im Rahmen einer freiberuflichen Tätigkeit erbracht oder im Wettbewerb mit freiberuflich Tätigen angeboten werden und deren Gegenstand eine Aufgabe ist, deren Lösung nicht vorab eindeutig und erschöpfend beschrieben werden kann, sowie der in der Vergabeverordnung festgelegte Schwellenwert erreicht oder überschritten wird. Die VOL (Verdingungsordnung für Leistungen) ist auf alle Lieferungen und Leistungen anzuwenden, die nicht der VOB oder der VOF unterfallen. Die Vergabeverordnung 2006 enthält mehrere Bestimmungen über das bei der Vergabe einzuhaltende Verfahren und die Nachprüfungsverfahren für öffentliche Aufträge oberhalb der Schwellenwerte der europaweiten Vergabe. Die Verordnung verpflichtet die öffentlichen Auftraggeber ab einer bestimmten Auftragshöhe zur Anwendung der Verdingungsordnung. Die HOAI ist die Honorarordnung für die Berechnung der Entgelte für Leistungen der Architekten und der Ingenieure. Sie enthält Regelungen über die Honorarermittlung, differenziert nach Grundleistungen und Besonderen Leistungen.

Linear Infrastructure

see axis

Bandinfrastruktur

siehe Achse

Local Planning Authority

The authorities responsible for local urban development planning (preparatory and binding land use plans) and informal planning (such as urban development planning) are municipalities or the competent municipal department, mainly the urban planning office (Stadtplanungsamt).

→ municipality, local authority

→ city, town

Träger der kommunalen Planung

Träger der kommunalen Bauleitplanung (Flächennutzungs- und Bebauungsplanung) sowie informeller Planungen (etwa der Stadtentwicklungsplanung) sind die Städte und Gemeinden bzw. das zuständige Fachamt, meist das Stadtplanungsamt.

→ Gemeinden

→ Städte

→ Bauleitplanung

→ urban land-use planning
→ local planning autonomy

Local Planning Autonomy

Local or municipal planning autonomy refers to the local planning rights constitutionally guaranteed to local authorities. The basis for planning autonomy is the constitutional right of municipal self-government. The constitution of the Weimar Republic, Article 28 of the Basic Law, and the constitutions of the West German states have entrenched the system of local self-government. Article 28 of the Basic Law lays down that municipalities must be guaranteed the right to regulate all local affairs on their own responsibility within the limits prescribed by the laws. The Federal Building Code accordingly specifies that land-use plans are to be prepared by the municipality on their own responsibility.

→ municipality, local authority
→ Federal Building Code
→ urban land-use plan

→ kommunale Planungshoheit

Kommunale Planungshoheit(*)

Die Planungshoheit der Gemeinden (kommunale Planungshoheit) bezeichnet das Recht zur örtlichen Planung, welches den Gemeinden der Bundesrepublik Deutschland verfassungsrechtlich garantiert ist. Die Grundlage für die Planungshoheit liegt in dem den Gemeinden durch das Grundgesetz eingeräumten Selbstverwaltungsrecht. Schon die Weimarer Reichsverfassung, das Grundgesetz in seinem Artikel 28 und die Verfassungen der westdeutschen Länder haben das System kommunaler Selbstverwaltung verfassungsrechtlich garantiert. In Art. 28 GG ist festgelegt, dass den Gemeinden das Recht gewährleistet sein muss, alle Angelegenheiten der örtlichen Gemeinschaft im Rahmen der Gesetze in eigener Verantwortung zu regeln. Deshalb ist im Baugesetzbuch festgelegt, dass die Bauleitpläne von der Gemeinde in eigener Verantwortung aufzustellen sind. (nach ARL 2002)

→ Gemeinde
→ Baugesetzbuch
→ Bauleitplan

Local Self-Government

see local planning autonomy

Kommunale Selbstverwaltung

siehe Kommunale Planungshoheit

Mediation

see moderation

Mediation

siehe Moderation

Metropolitan Area, european

In Germany, European metropolitan regions or areas are agglomerations that have an impact beyond the national borders as spatial and functional locations owing to their outstanding functions on an international scale. It is hoped that they will maintain the productive capacity and competitiveness of Germany and Europe as motors of societal, economic, social, and cultural development, and help accelerate European integration. European metropolitan regions are particularly dynamic urban agglomerations with strong population and economic potential. They are mostly defined in generous terms, and, unlike urban regions, include large rural areas surrounding the actual conurbation. They are not objective categories in the central place system but complement it with regard to certain outstanding international spatial functions. For instance, European metropolitan

Metropolregion, europäische(*)

Als Europäische Metropolregionen werden in der Bundesrepublik Deutschland Agglomerationen bezeichnet, die als räumliche und funktionale Standorte Kraft ihrer herausragenden Funktionen im internationalen Maßstab über die nationalen Grenzen hinweg ausstrahlen. Als Motoren der gesellschaftlichen, wirtschaftlichen, sozialen und kulturellen Entwicklung sollen sie die Leistungs- und Konkurrenzfähigkeit Deutschlands und Europas erhalten und dazu beitragen, den europäischen Integrationsprozess zu beschleunigen. Die Metropolregionen sind Agglomerationsräume mit hohem Bevölkerungs- und Wirtschaftspotential, die sich besonders dynamisch entwickeln. Metropolregionen sind überwiegend sehr großzügig abgegrenzt und umfassen, anders als Stadtregionen, auch große ländliche Räume im Umfeld des eigentlichen Ballungskerns. Sie sind

regions provide spatial concentrations of business and political decision-making and control functions, technical, scientific and socio-cultural innovation functions, as well as gateway functions optimising access to people, knowledge, and markets. In 1995 a framework for action in spatial planning policy was established at the federal level, setting priorities for strengthening and developing European metropolitan regions. Nine have since been designated in Germany: in 1995 Berlin-Brandenburg, Hamburg, Munich, Rhine-Main, Rhine-Ruhr, and Stuttgart; in 1997 the Halle-Leipzig-Saxony Triangle; and in 2005 Hanover-Brunswick-Göttingen, Nuremberg, Rhine-Neckar, and Bremen-Oldenburg.

→ central-place system

→ agglomeration, conurbation, metropolitan area

keine Zielkategorie im Rahmen des Zentrale-Orte-Systems, sondern ergänzen es hinsichtlich einiger herausragender internationaler Raumfunktionen. So finden sich in den europäischen Metropolregionen räumliche Konzentrationen von unternehmerischen und politischen Entscheidungs- und Kontrollfunktionen, technisch-wissenschaftlichen und sozio-kulturellen Innovationsfunktionen sowie den Zugang zu Menschen, Wissen und Märkten optimierenden Gateway-Funktionen. 1995 wurde auf Bundesebene ein raumordnungspolitischer Handlungsrahmen erstellt, der bestimmte Handlungsschwerpunkte zur Stärkung und Entwicklung der europäischen Metropolregionen enthält. In der Bundesrepublik Deutschland wurden seitdem neun Metropolregionen festgelegt: 1995 die Regionen Berlin-Brandenburg, Hamburg, München, Rhein-Main, Rhein-Ruhr und Stuttgart, 1997 zusätzlich Halle-Leipzig-Sachsendreieck und 2005 Hannover-Braunschweig-Göttingen, Nürnberg, Rhein-Neckar und Bremen-Oldenburg. (nach ARL 2002; Blotevogel 2005, BBR 2005c:366)

→ Zentrale-Orte-System

→ Agglomeration

Mitigation and Replacement Measures

see impact mitigation regulation

Ausgleichs- und Ersatzmaßnahme

siehe Eingriffsregelung

Models for Urban Development

Models for urban development are projections; they formulate objectives and principles for action without prescribing the final result. They are informal tools for orientation, coordination, and motivation. They come in various forms: programmes and manifestos, statements of principle and general plans, quality standards and procedural concepts.

Such models have been an explicit subject of debate in Germany only since the Second World War, where the term arose in connection with the reconstruction of war-damaged cities. Since the mid-1990s, the issue of models has experienced a renaissance after attracting little attention during the 1970s and 1980s. This new boom is the result of economic and societal structural changes and the uncertain prospects they have engendered. The urban development models developed during the first years of the Federal Republic were still authoritarian and normative. Present-day models are based on planning policy discourse between societal actors.

Models are now being generated or relaunched at all levels of spatial planning – district, city, and region (→ guiding principles for spatial development). City authorities use models as tools for clarifying funda-

Leitbilder der Stadtentwicklung

Leitbilder für Stadtentwicklung sind Projektionen in die Zukunft; mit Leitbildern werden Zielvorstellungen und Handlungsprinzipien formuliert, ohne Endzustände vorzugeben. Leitbilder übernehmen als informelles Instrument Orientierungs-, Koordinierungs- und Motivierungsfunktionen. Dabei ist der Begriffsteil „Bild“ als Appell für Anschaulichkeit zu verstehen, was aber nicht konkrete Bildhaftigkeit nach sich ziehen muss. Leitbilder können unterschiedlich Gestalt annehmen: als Programme und Manifeste, Grundsätze und Leitpläne, als Qualitätsstandards und Verfahrenskonzepte.

Ausdrücklich von „Leitbildern“ ist in Deutschland erst nach dem Zweiten Weltkrieg die Rede, wobei es sich um städtebauliche Leitbilder für den (Wieder-)Aufbau der kriegszerstörten Städte handelte. Seit Mitte der 1990er Jahre erfährt die Leitbildfrage eine Wiederbelebung, nachdem sie in den 1970er und -80er Jahre nur wenig Beachtung fand. Diese neue Konjunktur ist Folge des ökonomischen und gesellschaftlichen Strukturwandels und der damit verbundenen ungewissen Zukunftsaussichten. Die vor allem städtebaulichen Leitbilder der ersten bundesrepublikanischen Jahrzehnte waren noch autoritär-normativ angelegt. Dagegen basieren Leitbilder

mental development perspectives and for positioning themselves in the European city network. Furthermore, precise models provide the basis for many urban marketing concepts, which a large number of cities in the 1990s hoped would bring results in intermunicipal competition. One key question is whether the model of the European city can still point the way for urban development and urban policy.

Since models reflect points of view, values, and the state of the art of the period when they are developed, they can apply only for a limited period of time. They have to be updated and adapted to meet changing conditions and values. Communication is the focus. The loss of certainty about the future has brought greater openness in thinking about what is desirable, and greater willingness to take risks and to make more radical course corrections.

→ guiding principles for spatial development

heute auf dem planungspolitischen Diskurs der gesellschaftlichen Akteure.

Heute werden auf allen Ebenen räumlicher Planung – für den Stadtteil, die Gesamtstadt und die Region (→Leitbilder der Raumentwicklung) – Leitbilder generiert oder neu aufgelegt. Städte nutzen Leitbilder als Instrument zur Klärung grundlegender Entwicklungsperspektiven und zur Positionierung im europäischen Städtenetz. Darüber hinaus bildet die Herausarbeitung von möglichst prägnanten Leitbildern das Fundament vieler Stadtmarketingkonzepte, auf die sich in den neunziger Jahren verstärkt die Hoffnung der Städte im interkommunalen Konkurrenzkampf gründet. Eine Schlüsselfrage richtet sich darauf, inwieweit das Modell der europäischen Stadt gegenwärtig noch richtungsweisend für Stadtentwicklung und Stadtpolitik sein kann.

Da Leitbilder Sichtweisen, Werte und den Wissensstand ihrer Entstehungszeit spiegeln, können sie Geltung nur auf Zeit beanspruchen. Sie müssen fortgeschrieben und entsprechend veränderten Bedingungen und Wertmaßstäben neu justiert werden. Im Mittelpunkt steht die Kommunikationsfunktion. Der Verlust von Gewissheit über die Zukunft führt zu größerer Offenheit beim Nachdenken über Wünschenswertes, zu mehr Irrtums- und Risiko- aber auch zu weitgehender Korrekturbereitschaft. (Becker 2005)

→ Leitbilder der Raumentwicklung

Moderation and Mediation

The broad spectrum of new methods for seeking consensus which go beyond the traditional approaches widely used in politics and in planning authorities can be reduced to three basic types: negotiation, moderation and mediation. Although it is possible to make a clear formal distinction between these three informal approaches geared to fostering co-operation within the planning process and to supporting conflict resolution, in practice the distinctions tend to be somewhat blurred.

The purpose of negotiation within the planning process is to achieve a specific objective and to balance advantages and disadvantages among the various parties affected.

Moderators are employed to seek out joint and efficient solutions to planning problems. Their role is to ensure that planning processes remain rational and creative, that the scope for finding solutions to problems is kept as broad as possible, and that it is fully exploited. The prime task for any moderator is to create a clear conceptual structure for problem-solving processes, to spot possible stumbling blocks as soon as they appear, and to find ways of overcoming them.

Moderation und Mediation*

Das breite Spektrum neuer Formen der Konsensfindung außerhalb der traditionellen Vorgehensweisen in Politik und Planungsverwaltung lässt sich idealtypisch auf die Grundtypen Verhandlungen, Moderationsverfahren und Mediatorenverfahren reduzieren. Diese drei informellen Planungsansätze, um Zusammenarbeit im Planungsprozess zu motivieren und um die Konfliktlösung zu erleichtern, lassen sich formal zwar gut unterscheiden, in der Praxis fließen die Typen aber ineinander.

Verhandlungen finden im Planungsprozess statt, um ein bestimmtes Ergebnis zu erzielen und um die Vor- und Nachteile zwischen Handlungspartnern auszugleichen.

Moderatoren werden eingesetzt, um planerische Probleme gemeinsam und effizient zu lösen. Sie sollen dazu beitragen, dass Planungsprozesse möglichst rational und kreativ ablaufen, dass der Problemlösungsraum weitgespannt und in seiner ganzen Breite ausgeschöpft wird. Die vordringlichste Aufgabe des Moderators besteht darin, Problemlösungsprozesse gedanklich zu strukturieren, mögliche Hemmnisse frühzeitig zu erkennen und abzubauen.

On some occasions it may be advisable to appoint a mediator to eliminate conflicts on distribution or reduce veto positions on certain planning projects. The principle purpose of mediation procedures is to communicate the perceived sources of conflict to other parties, and to seek ways of working through these conflicts. This is by far the most difficult and the most demanding of the three approaches. Mediators need to display high levels of sensitivity – and the participants in mediation procedures must be committed to working together to find a mutually acceptable solution and common consensus.

→ informal planning

Um Verteilungskonflikte zu beseitigen oder Vetopositionen zu bestimmten Planungsvorhaben abzubauen, ist es sinnvoll, einen Mediator hinzuzuziehen. Mediatorenverfahren dienen vorrangig der Konfliktvermittlung und -bearbeitung. Sie sind unter den drei genannten Verfahren der bei weitem anspruchsvollste und zugleich schwierigste Ansatz. Vom Mediator wird besondere Sensibilität gefordert. Die Mitwirkenden müssen über einen ausgeprägten Willen zur gemeinsamen Problembearbeitung und zur Konsensfindung verfügen. (ARL 2003)

→ informelle Planung

Municipality Belonging to a County

see city, town

Kreisangehörige Stadt

siehe Stadt

Municipality, Local Authority

The municipality, often referred to as local authority, is a political and administrative unit with its own territory. It is a territorial authority (Gebietskörperschaft) constituting the lowest level in the administrative structure of the Federal Republic of Germany. According to Article 28 of the Basic Law, municipalities have the right of local self-government, that is, the right to manage all the affairs of the local community on their own responsibility. The term "Kommune" is used synonymously with "Gemeinde," and larger municipalities are also referred to as "Stadt" (translated as city or town depending on size). In terms of independence and size, municipalities are divided into municipalities belonging to counties (kreisangehörige Gemeinden), cities belonging to counties (kreisangehörige Städte), county-free cities (kreisfreie Städte) (often also translated as "county borough" or "independent city"), and municipalities integrated into administrative associations (Verwaltungsgemeinschaften). Such associations group small municipalities with fewer than 3,000 to 5,000 inhabitants in order to enhance the administrative capability of the communities. The groupings differ in name from state to state: "Verwaltungsgemeinschaft," "Samtgemeinde," "Amt." The decision-making bodies of these associations are termed association councils ("Gemeinschaftsräte"), composed of the mayors and representatives of the municipal councils of member municipalities.

Municipalities are competent in all areas directly affecting the local community. These functions are referred to as self-government tasks. They are either non-mandatory or mandatory. Only tasks that by their nature have to be entrusted to other levels of government and administration are excepted from local autonomy. To ensure the effective performance of their autonomous functions, municipalities have

Gemeinde, Kommune(*)

Die Gemeinde ist eine politische und administrative Einheit mit eigenem Territorium. Sie ist eine Gebietskörperschaft und bildet die unterste Stufe im Verwaltungsaufbau der Bundesrepublik Deutschland. Gemeinden haben nach Artikel 28 Grundgesetz das Recht auf kommunale Selbstverwaltung, also die eigenverantwortliche Regelung ihrer Angelegenheiten. Als Synonym wird auch der Begriff Kommune verwendet; größere Gemeinden werden als Städte bezeichnet. Die Gemeinden unterscheiden sich nach dem Grad ihrer Unabhängigkeit und Größe in kreisangehörige Gemeinden, kreisangehörige Städte, kreisfreie Städte und in Verwaltungsgemeinschaften eingegliederte Gemeinden. Zu Verwaltungsgemeinschaften sind kleine Gemeinden mit weniger als 3.000 bis 5.000 Einwohner zusammengefasst, um die Verwaltungskraft dieser Gemeinden zu stärken, Je nach Bundesland werden diese Gemeinschaften als „Verwaltungsgemeinschaften", „Verbandsgemeinden", „Samtgemeinden" oder „Ämter" bezeichnet. Das Beschlussorgan dieser Verwaltungsgemeinschaften ist der Gemeinschaftsrat, der aus Bürgermeistern und Vertretern der Gemeinderäte der beteiligten Gemeinden besteht.

In den Zuständigkeitsbereich der Gemeinden fallen alle Aufgaben, die die örtliche Gemeinschaft und ihre Bürger unmittelbar berühren. Diese werden als Selbstverwaltungsaufgaben bezeichnet. Es gibt freiwillige und pflichtige Selbstverwaltungsaufgaben. Ausgenommen hiervon sind nur solche Bereiche, die aufgrund der besonderen Art der Aufgaben anderen Ebenen von Regierung und Verwaltung übertragen worden sind. Zur wirksamen Erfüllung der Selbstverwaltungsaufgaben haben die Gemeinden das Recht, zur Regelung ihrer Angelegenheiten Satzungen als allgemeinverbindliche Rechtsvorschriften zu erlassen.

the right to adopt generally binding bye-laws for managing the affairs of the community.

Apart from their autonomous responsibilities, municipalities have delegated functions to perform. In so doing, municipalities act in an executive capacity on behalf of the state or federal government.

In the system of territorial units for statistical purposes (NUTS) developed by Eurostat for use in Europe, the administrative associations and municipalities in the Federal Republic are classified as LAU 1 and LAU 2 (Local Administrative Units)

→ city, town

→ territorial authority

→ local self-government

→ bye-law

Neben den Selbstverwaltungsaufgaben haben die Gemeinden Auftragsangelegenheiten zu erfüllen. Hierbei sind die Gemeinden nur als ausführendes Organ im Auftrag des Landes oder auch des Bundes tätig.

In der von Eurostat entwickelten, in Europa verwendeten, Systematik der Gebietseinheiten für die Statistik (NUTS) entsprechen die Verwaltungsgemeinschaften und Gemeinden der Bundesrepublik Deutschland den Klassifikationsebenen LAU 1 und LAU 2 (lokale Verwaltungseinheiten bzw. Local Administrative Units). (nach Schmidt-Eichstaedt 2005, ARL 2003 und ARL 2002)

→ Stadt

→ Gebietskörperschaft

→ Kommunale Selbstverwaltung

→ Satzung

Mutual Feedback Principle

This principle (also known more accurately as the "principle of countervailing influence") is a principle of spatial planning under which local, regional and supra-regional planning each influences, and is in turn influenced by, the other levels of planning. The purpose of this mutual influence is to ensure that actions taken to develop, structure and protect sub-areas of the territory are consistent with the conditions and requirements of the whole; similarly, actions to develop, structure and protect the overall territory should also take account of the conditions and requirements of sub-areas. The mutual feedback principle is enshrined in the Federal Spatial Planning Act.

→ spatial planning

→ regional planning

→ Federal Spatial Planning Act

Gegenstromprinzip*

Das Gegenstromprinzip ist ein raumordnerisches Prinzip, das die wechselseitige Beeinflussung von örtlicher bzw. von regionaler und überregionaler Planung kennzeichnet. Hiernach soll sich die Entwicklung, Ordnung und Sicherung der Teilräume in die Gegebenheiten und Erfordernisse des Gesamtraumes einfügen; die Entwicklung, Ordnung und Sicherung des Gesamtraums soll jedoch auch die Gegebenheiten und Erfordernisse der Teilräume berücksichtigen. Das Gegenstromprinzip ist im Raumordnungsgesetz festgelegt. (ARL 2003)

→ Raumordnung

→ Regionalplanung

→ Raumordnungsgesetz

National Park

In Germany, the national park is one sort of area-based nature conservation poject provided for by the Federal Nature Conservation Act. National parks are extensive areas of national importance specifically designated and granted protected status because of their distinctive character, and which for most of their territory meet the requirements for designation as a nature conservation area. National parks should show little sign of human influence and serve primarily to sustain the greatest possible diversity of native fauna and flora.

National parks are established by the states in consultation with the ministries responsible for environmental matters and spatial planning. The states must ensure that national parks enjoy the same level of

Nationalpark(*)

Der Nationalpark gehört in Deutschland zu den Möglichkeiten des gebietsbezogenen Naturschutzes, den das Bundesnaturschutzgesetz bereitstellt. Nationalparke sind rechtsverbindlich festgesetzte einheitlich zu schützende Gebiete von nationaler Bedeutung, die großräumig und von besonderer Eigenart sind und im überwiegenden Teil ihres Gebietes die Voraussetzungen eines Naturschutzgebietes erfüllen. Sie sollen sich in einem vom Menschen wenig beeinflussten Zustand befinden und vornehmlich der Erhaltung eines möglichst artenreichen heimischen Tier- und Pflanzenlebens dienen.

Die Ausweisung von Nationalparken erfolgt durch die Bundesländer im Benehmen mit den für Umwelt und Raumordnung zuständigen Ministerien.

protection as nature conservation areas – with some allowances, however, for their considerably larger size and settlement. Where there is no conflict with the purpose of protection, national parks should be accessible to the general public. National parks differ from nature conservation areas in that they are much larger. To date 15 national parks have been designated in the Federal Republic of Germany, covering a total area of around 950,000 ha, some 2.6 per cent of the national territory.

→ nature conservation
→ nature conservation area, nature reserve
→ protected status

Natural Landscape

Natural landscapes are those landscapes which have remained unaffected by direct human intervention or activity, and which have evolved simply through the interplay of the prevailing natural and ecological factors. Natural landscapes are today only to be found in sparsely populated areas. An effort is made in nature conservation areas and national parks to preserve near-natural landscapes and develop them into natural landscapes. Natural and near-natural landscapes contrast with cultural landscapes (man-made landscapes).

→ cultural landscape
→ nature conservation
→ nature conservation area, nature reserve
→ national park

Nature Conservation

Nature conservation covers the whole range of measures to conserve and foster wild species of fauna and flora, their biotic communities and natural resources and to safeguard landscapes and sections of landscapes under natural conditions. There are a number of legal sources for nature conservation law, the most important being EU law, which has adapted the Washington Convention on Endangered Species for European Union, the Federal Nature Conservation Act, and state nature conservation acts.

The Federal Nature Conservation Act have to be filled out by state legislation. The states have to implement the framework provisions in state nature conservation law, in which they enjoy a certain discretionary scope. The Federal Nature Conservation Act applies directly only in exceptional cases, e.g. for the purposes of species conservation, in enforcing the EU Directive on the conservation of natural

Die Länder haben sicherzustellen, dass Nationalparke unter Berücksichtigung der durch ihre Großräumigkeit und Besiedlung gebotenen Ausnahmen wie Naturschutzgebiete geschützt werden. Soweit es der Schutzzweck erlaubt, sollen Nationalparke der Allgemeinheit zugänglich gemacht werden. Grundsätzlich unterscheiden sich Nationalparke von Naturschutzgebieten durch ihre Großräumigkeit. In der Bundesrepublik Deutschland sind bisher 15 Nationalparke mit einer Gesamtfläche von etwa 950 000 ha ausgewiesen worden, das entspricht etwa 2,6 % des Bundesgebietes. (nach ARL 2003)

→ Naturschutz
→ Naturschutzgebiet
→ Unterschutzstellung

Naturlandschaft*

Als Naturlandschaft bezeichnet man eine von unmittelbaren menschlichen Aktivitäten unbeeinflusst gebliebene Landschaft, die lediglich auf dem Zusammenwirken der derzeit herrschenden naturbedingten ökologischen Faktoren beruht. Naturlandschaften gibt es nur noch in dünn besiedelten Gebieten. In Naturschutzgebieten und Nationalparken wird versucht, naturlandschaftsnahe Räume zu erhalten und ihre Entwicklung zur Naturlandschaft hin zu fördern. Das Gegenteil von Naturlandschaften bzw. naturnahen Landschaften sind Kulturlandschaften. (ARL 2003)

→ Kulturlandschaft
→ Naturschutz
→ Naturschutzgebiet
→ Nationalpark

Naturschutz(*)

Unter Naturschutz versteht man die Gesamtheit der Maßnahmen zur Erhaltung und Förderung von Pflanzen und Tieren wild lebender Arten, ihrer Lebensgemeinschaften und natürlichen Lebensgrundlagen sowie Maßnahmen zur Sicherung von Landschaften und Landschaftsteilen unter natürlichen Bedingungen. Die Rechtsgrundlage für den Naturschutz, das Naturschutzrecht, findet sich in mehreren Rechtsquellen. Wesentliche Rechtsgrundlagen sind das EU-Recht, welches z. B. das Washingtoner Artenschutzabkommen in die EU eingeführt hat, das Bundesnaturschutzgesetz und die Naturschutzgesetze der Länder.

Das Bundesnaturschutzgesetz wird konkretisiert durch die Ländernaturschutzgesetze. Diese müssen die Rahmenvorschriften in Landesnaturschutzrecht umsetzen, wobei sie einen Gestaltungsspielraum besitzen. Nur im Ausnahmefall gelten die Vorschriften

habitats and of wild flora and fauna and with respect to administrative and penal provisions.

The Federal Nature Conservation Act defines the task of nature conservation and landscape management as to conserve, manage, develop nature and landscape both inside and outside the areas of human settlement in order to safeguard on a lasting basis the functioning of the ecosystem, the sustained availability of natural resources for human use, fauna and flora, and the diversity, characteristic features and beauty of nature and landscapes as resources for human life and for human recreation. This is also the function of protected areas that can be established pursuant to the Federal Nature Conservation Act. The most important categories of protected area are nature conservation areas, national parks, biosphere reserves, landscape conservation areas, and nature parks. They may overlap or even coincide. There are also natural monuments and protected components of landscapes. These are isolated or very restricted protected areas to individual creations of nature or elements of particular importance for the ecosystem and for enlivening and structuring the landscape.

→ landscape management
→ nature conservation area
→ national park
→ biosphere reserve
→ nature park

Nature Conservation Area, Nature Reserve

Nature conservation areas or nature reserves are legally protected areas where nature and landscape as a whole in part requires special protection in order to conserve the biotic communities or habitats of certain species of wild fauna and flora. Areas may also be granted protected status for scientific reasons, for reasons relating to natural history or national heritage, or because of their rarity, specifically characteristic features or outstanding beauty.

Any activity that may lead to the destruction of, damage to, or alteration of a nature conservation area or which may induce any lasting disturbance or disruption is prohibited. Nature conservation areas enjoy the highest degree of protection for nature and landscape provided under the Federal Nature Conservation Act.

des Bundesnaturschutzgesetzes unmittelbar, unter anderem zum Artenschutz, zur Fauna-Flora-Habitat-Richtlinie (EU-Richtlinie Erhaltung der natürlichen Lebensräume sowie der wildlebenden Tiere und Pflanzen) oder zu Bußgeld- und Strafvorschriften.

Das Bundesnaturschutzgesetz charakterisiert Naturschutz und Landschaftspflege als sachlich und räumlich umfassende Aufgabe, indem Natur und Landschaft im besiedelten und unbesiedelten Bereich so zu schützen, zu pflegen und zu entwickeln sind, dass die Leistungsfähigkeit des Naturhaushalts, die Nutzungsfähigkeit der Naturgüter, die Pflanzen- und Tierwelt sowie die Vielfalt, Eigenart und Schönheit von Natur und Landschaft als Lebensgrundlagen des Menschen und als Voraussetzung für seine Erholung in Natur und Landschaft nachhaltig zu sichern sind. Dem dienen auch die Schutzgebiete die nach Bundesnaturschutzgesetz ausgewiesen werden können. Die wichtigsten Schutzgebietskategorien sind: Naturschutzgebiete, Nationalparke, Biosphärenreservate, Landschaftsschutzgebiete und Naturparke. Sie können sich teilweise überlagern oder sind in Einzelfällen sogar deckungsgleich. Des Weiteren existieren noch Naturdenkmale und Geschützte Landschaftsbestandteile. Dabei handelt es sich um punktuelle bzw. sehr kleinflächige Schutzgebiete zum Schutz von Einzelschöpfungen der Natur bzw. von Elementen mit besonderer Bedeutung für den Naturhaushalt und zur Belebung und Gliederung der Landschaft. (nach ARL 2002)

→ Landschaftspflege
→ Naturschutzgebiete
→ Nationalparke
→ Biosphärenreservate
→ Naturparke

Naturschutzgebiet*

Naturschutzgebiete sind gemäß Bundesnaturschutzrecht rechtsverbindlich festgesetzte Gebiete, in denen ein besonderer Schutz von Natur und Landschaft in ihrer Ganzheit oder in einzelnen Teilen zur Erhaltung von Lebensgemeinschaften oder Biotopen bestimmter wild lebender Tier- und Pflanzenarten erforderlich ist. Die Unterschutzstellung kann darüber hinaus aus wissenschaftlichen, naturgeschichtlichen oder landeskundlichen Gründen sowie wegen der Seltenheit, besonderen Eigenart oder hervorragenden Schönheit der Gebiete erforderlich sein.

In den Naturschutzgebieten sind alle Handlungen, die zu einer Zerstörung, Beschädigung oder zu einer nachhaltigen Störung führen können, verboten. Die Ausweisung von Naturschutzgebieten stellt den intensivsten Schutz von Natur und Landschaft im Sinne des Bundesnaturschutzgesetzes dar. (ARL 2003)

→ nature conservation
→ nature park
→ national park
→ biosphere reserve
→ protected status

Nature Park

Nature parks are large expanses of cultural landscape in which the protection and conservation of biotope and species diversity is closely related to the recreational function of the landscape. The Federal Nature Conservation Act requires nature parks, which are predominantly landscape or nature protection areas, to be developed and managed as single units; in accordance with the principles and goals of spatial planning, they are also available for recreational use and for tourism. Environmentally friendly tourism and land uses are encouraged in such areas.

→ nature conservation
→ principles of spatial planning
→ goals of spatial planning
→ protected status

→ Naturschutz
→ Naturpark
→ Nationalpark
→ Biospärenreservat
→ Unterschutzstellung

Naturpark*

Naturparke sind großräumige Kulturlandschaften, in denen der Schutz und die Erhaltung der Biotop- und Artenvielfalt stark mit der Erholungsfunktion der Landschaften für den Menschen verbunden sind. Naturparke sind nach Bundesnaturschutzgesetz einheitlich zu entwickelnde und zu pflegende Gebiete, die zum überwiegenden Teil Landschaftsschutzgebiete oder Naturschutzgebiete sind. Darüber hinaus sind sie nach den Grundsätzen und Zielen der Raumordnung für die Erholung oder den Fremdenverkehr vorgesehen. In ihnen werden umweltverträglicher Tourismus und dauerhaft umweltverträgliche Landnutzungen unterstützt. (ARL 2003)

→ Naturschutz
→ Grundsätze der Raumordnung
→ Ziele der Raumordnung
→ Unterschutzstellung

Neighbourhood

see (municipal/urban) district

Quartier

siehe Stadtteil

Neighbourhood Association

see planning association

Nachbarschaftsverband

siehe Planungsverband

Neighbourhood Management

see Socially Integrative City

Quartiersmanagement

siehe Soziale Stadt

Open Space Planning

Open space planning deals with undeveloped, open spaces in built-up areas. Thus defined, open spaces include gardens, areas of vegetation in settlements, streets and squares, green belts, parks and cemeteries, undeveloped vacant sites, playgrounds and sports grounds. Open space planning is the responsibility of the municipality. It aims to create, maintain, and develop open spaces as environmental impact mitigation areas, communicative recreational areas, urban development structural elements, and soft locational factors. Since open spaces are of no direct economic benefit, open space planning depends on

Freiraumplanung

Freiraumplanung ist der planerische Umgang mit unbebauten, offenen Flächen im Innenbereich von Siedlungen. Zu Freiräumen im Sinne des Begriffs zählen etwa Gärten, Siedlungsgrün, Straßen und Plätze, Grünzüge, Parks und Friedhöfe, unbebaute Brachflächen oder Spiel- und Sportplätze. Freiraumplanung ist eine kommunale Aufgabe. Sie soll Freiräume als ökologische Ausgleichsräume, kommunikative Erholungsflächen, städtebauliche Gliederungselemente und weiche Standortfaktoren schaffen, erhalten und entwickeln. Da Freiräume keinen unmittelbaren wirtschaftlichen Nutzen erbringen, ist Freiraumplanung

the political will of local policy makers in asserting its claims against economic exploitation interests. A commitment to open space planning is embodied in the Federal Spatial Planning Act, the Federal Building Code, in state building regulations, and in nature conservation legislation. The tools it employs are landscape plans, general urban green structures plans, development mitigation plans, and open space plans. Open space planning objectives and measures can also be taken over by urban land-use planning.

→ landscape planning

→ green structures policy

vom politischen Willen kommunaler Entscheidungsträger abhängig, um ihre Ansprüche gegenüber wirtschaftlichen Verwertungsinteressen durchzusetzen. Die Verpflichtung zur Freiraumplanung ist im Raumordnungsgesetz, im Baugesetzbuch, in den Bauordnungen der Länder und in den Naturschutzgesetzen verankert. Als Instrumente stehen Landschaftspläne, Grünordnungspläne, landschaftspflegerische Begleitpläne und Freiflächenpläne zur Verfügung, ebenso können Ziel und Maßnahmen der Freiraumplanung in die Bauleitplanung übernommen werden. (nach Klaffke 2005)

→ Landschaftsplanung

→ Grünordnung

Open Space Structure

The term open-space structure refers to the quantitative and qualitative pattern or distribution of land uses and functions in a near-natural state. It is one of the principles of spatial planning (Federal Spatial Planning Act – Section 2 (2) No.3) that the open-space structure of the national territory be protected and developed. The importance of open spaces for productive land use, the water balance, fauna and flora and for the climate is to be guaranteed or their function restored. Provision is to be made for economic and social uses of open spaces by taking their ecological functions into consideration. The designation of biosphere reserves and the concept of habitat network systems are ways to conserve open space structure.

→ habitat network system

→ biosphere reserve

Freiraumstruktur*

Freiraumstruktur ist das quantitative und qualitative Verteilungsmuster von Nutzungen und Funktionen in naturnahem Zustand. Den Grundsätzen der Raumordnung (§ 2 (2) Nr. 3 Raumordnungsgesetz) entsprechend ist die großräumige und übergreifende Freiraumstruktur zu erhalten und zu entwickeln. Dabei sind die Freiräume in ihrer Bedeutung für funktionsfähige Böden, für den Wasserhaushalt, die Tier- und Pflanzenwelt sowie das Klima zu sichern oder in ihrer Funktion wiederherzustellen. Wirtschaftliche und soziale Nutzungen des Freiraumes sind unter Beachtung seiner ökologischen Funktionen zu gewährleisten. Unter anderem unterstützen die Ausweisung von Biosphärenreservaten und das Konzept der Biotopverbundsysteme die Erhaltung der Freiraumstruktur. (ARL 2003)

→ Biotopverbundsystem

→ Biosphärenreservat

Operator Model

see public private partnership

Betreibermodell

siehe Public Private Partnership

Ordinance

An ordinance is a general regulation issued by a governmental authority pursuant to a statute with the same binding effect as primary law. Ordinances in this sense (Rechtsverordnungen) are to be distinguished from administrative regulations which apply only with regard to subordinate public authorities and require no statutory basis.

→ Land Utilisation Ordinance

→ Plan Notation Ordinance

→ bye-law

Verordnung, Rechtsverordnung(*)

Eine (Rechts-)Verordnung ist eine von einer staatlichen Behörde aufgrund einer gesetzlichen Ermächtigung erlassene allgemeine Regelung mit der gleichen verbindlichen Wirkung wie ein Gesetz. Rechtsverordnungen sind zu unterscheiden von den Verwaltungsvorschriften, die sich nur mit innerdienstlichen Anweisungen an nachgeordnete Behörden richten und die keiner Ermächtigung bedürfen. (nach ARL 2003)

→ Baunutzungsverordnung

→ Planzeichenverordnung

→ Satzung

Outer Zone, Undesignated Outlying Areas

The outer zone (undesignated outlying areas) includes all areas of the municipal territory that are neither within the spatial ambit of a binding land-use plan nor built up areas (→ inner zone or built-up area). In general, the outer zone is not to be developed. As a rule, development is permitted (Section 35 of the Building Code) only when it is not against the public interest, when adequate public infrastructure provision can be guaranteed, and the development project proposed has "privileged" status. This status is granted to development projects which by their very nature are considered suitable for the outer zone, or which need to be located outside built-up areas because of the specific demands they make on their surroundings or the specific purpose they serve. They include agricultural and forestry operations and public utilities, site-specific industries such as extractive enterprises, wind-power plants, and nuclear energy research and production facilities. Most privileged projects are approved only if the developer guarantees dedevelopment and de-sealing after permanent abandonment of the permitted operation.

→ inner zone, built-up area

→ binding land-use plan

→ provision of local public infrastructure

Außenbereich(*)

Der Außenbereich umfasst die Teile eines Gemeindegebietes, die weder im räumlichen Geltungsbereich eines Bebauungsplans noch innerhalb der im Zusammenhang bebauten Ortsteile (sog. Innenbereich) liegen. Der Außenbereich soll grundsätzlich nicht bebaut werden. Vorhaben im Außenbereich sind regelmäßig nur zulässig (siehe § 35 BauGB), wenn öffentliche Belange nicht entgegenstehen, die ausreichende Erschließung gesichert ist und es sich um „privilegierte Vorhaben" handelt. Dies gilt für Vorhaben, die ihrem Wesen nach in den Außenbereich passen oder die wegen ihrer besonderen Anforderungen an die Umgebung oder wegen ihrer besonderen Zweckbestimmungen außerhalb bebauter Ortslagen ausgeführt werden müssen. Dies bezieht sich insbesondere auf land- und forstwirtschaftliche Betriebe, auf Anlagen der öffentlichen Ver- und Entsorgung, auf standortgebundene Wirtschaftszweige wie Betriebe zur Rohstoffgewinnung, auf Windkraftanlagen sowie auf Einrichtungen zur Erforschung und Nutzung der Kernenergie. Die Mehrzahl der privilegierten Vorhaben wird nur zugelassen, wenn der Vorhabenträger eine Verpflichtung zum Rückbau und zur Entsiegelung nach dauerhafter Aufgabe der zulässigen Nutzung übernimmt. (nach ARL 2003)

→ Innenbereich

→ Bebauungsplan

→ Erschließung

Partial Preparatory Land-Use Plan

see preparatory land-use plan, zoning plan

Teilflächennutzungsplan

siehe Flächennutzungsplan

Permissible Lot Coverage

Permissible lot coverage, i.e. the proportion of the surface area of a site which may be built on, can be fixed by setting building lines, set-back lines or coverage depths in a binding land-use plan. When a building line is stipulated, development must take place along this line; whereas a set-back line sets a boundary beyond which no building or part of a building on the site may extend. Coverage depth stipulates also sets a limit which may not be exceeded. Minor departures may be permitted from all three of these limits.

→ binding land-use plan

→ Land Utilisation Ordinance

Überbaubare Grundstücksfläche*

Die überbaubaren Grundstücksflächen, also die Flächenanteile eines Grundstücks, auf denen bauliche Anlagen errichtet werden dürfen, können, gemäß Baunutzungsverordnung, durch die Festsetzung von Baulinien, Baugrenzen oder Bebauungstiefen in einem Bebauungsplan bestimmt werden. Die Festsetzung einer Baulinie bedeutet, dass auf dieser Linie gebaut werden muss, wohingegen die Festsetzung einer Baugrenze besagt, dass Gebäude und Gebäudeteile diese nicht überschreiten sollen. Ist eine Bebauungstiefe festgelegt, bedeutet dies ebenfalls, dass diese nicht überschritten werden darf Abweichungen in geringfügigem Ausmaß können in allen drei Fällen zugelassen werden. (ARL 2003)

→ Bebauungsplan

→ Baunutzungsverordnung

Plan and Programme EIA

see strategic environmental assessment, SEA

Plan Notation Ordinance

The Plan Notation Ordinance defines the way in which the substantive content of urban land-use plans it to be depicted graphically. It supplements the provisions on urban land-use planning contained in the Federal Building Code and in the Land Utilisation Ordinance. The Plan Notation Ordinance lays down the requirements and rules to be observed during the production of maps and plans for land-use planning for converting the provisions contained in the Land Utilisation Ordinance into graphic form. The aim is to standardise plan contents to facilitate interpretation and comprehension.

→ Land Utilisation Ordinance

→ urban land-use planning

Plan Preparation and Participation Procedure

A procedure is a formalised sequence of actions (i.e. with clearly defined, prescribed stages). All types of spatial planning (e.g. state spatial planning, regional planning, urban land-use planning and sectoral planning) are subject to certain procedures governing both the preparation of plans and participation. There are also statutory procedures for approving certain types of project. They include planning approval laid down in administrative procedure legislation, and sometime in sectoral planning laws.

State spatial planning acts set forth the procedures for preparing state development plans and programmes, as well as regional plans. The framework is set by the Federal Spatial Planning Act (e.g. Section 9 (4)).

One particularly rigorous procedure (since it is enshrined in the Federal Building Code) is that governing the preparation, amendment, and repeal of urban land-use plans. The various stages – initiation of the procedure, participation, public display, adoption and approval of the plan (e.g. urban land-use plan) – are prescribed by law.

The procedure for public participation in the preparation of urban land-use plans is also standardised; this is a two-stage procedure. The first stage provides for the public to be informed at the earliest possible date through public advertisement of the general aims and purposes of the plan and of alternative proposals for the re-organisation or development of the planning area, and of the foreseeable impacts of the

Plan- und Programm-UVP

siehe strategische Umweltprüfung

Planzeichenverordnung(*)

Die Planzeichenverordnung legt fest, wie die Inhalte der Bauleitpläne zeichnerisch darzustellen sind. Sie ergänzt für den Bereich der Bauleitplanung die Regelungen des Baugesetzbuches und der Baunutzungsverordnung. In der Planzeichenverordnung sind die Anforderungen an die im Rahmen der Bauleitplanung zu erstellenden notwendigen Darstellungsmittel zur zeichnerischen Umsetzung der in der Baunutzungsverordnung enthaltenen Regelungen festgelegt. Sie dient dem Ziel der Vereinheitlichung der Planinhalte zur besseren Lesbarkeit und Verständlichkeit. (nach ARL 2001c)

→ Baunutzungsverordnung

→ Bauleitplanung

Aufstellungs- und Beteiligungsverfahren(*)

Ein Verfahren ist eine formalisierte, d. h. durch definierte Arbeitsschritte vorgegebene Abfolge von Handlungen. Sämtliche raumbedeutsamen Planungen (Landesplanung, Regionalplanung, Bauleitplanung, Fachplanungen) sind bestimmten Aufstellungs- und Beteiligungsverfahren unterworfen. Darüber hinaus gibt es gesetzlich geregelte Verfahren für bestimmte Vorhabenszulassungen. Dazu gehört insbesondere die Planfeststellung, die in den Verwaltungsverfahrensgesetzen, z.T. auch in Fachplanungsgesetzen geregelt ist.

Die Landesplanungsgesetze regeln die Verfahren zur Aufstellung von Landesentwicklungsplänen bzw. -programmen sowie jene zur Aufstellung von Regionalplänen, wobei generelle Vorgaben hierzu bereits im ROG verankert sind (z.B. § 9 (4)).

Besonders stringent, da bundesrechtlich verankert, ist das im Baugesetzbuch normierte Verfahren zur Aufstellung, Ergänzung, Änderung und Aufhebung von Bauleitplänen geregelt. Die einzelnen Verfahrensschritte von der Einleitung des Verfahrens über die Beteiligungsverfahren, die öffentliche Auslegung bis hin zur abschließenden Beschlussfassung und Genehmigung der Bauleitpläne sind verbindlich vorgeschrieben.

Das Verfahren zur Beteiligung der Öffentlichkeit und der Behörden im Rahmen der Bauleitplanung findet in zwei Stufen statt. Die erste Stufe sieht vor, die Öffentlichkeit und die Behörden möglichst frühzeitig über die allgemeinen Ziele und Zwecke der Planung,

plan; at this point members of the public are given the opportunity to express their views and to gain further clarification. In a second step, draft plans and the accompanying explanatory memorandum, are placed on public display for a period of one month. During this period, members of the public are entitled to voice any objections to the plan or to make recommendations. The municipality is subsequently required to consider these objections and recommendations and to communicate the outcome of its deliberations to the people concerned.

→ Federal Building Code

→ planning approval

→ public participation

→ urban land-use planning

Planning and Building Law

The panoply of legal foundations governing planning is usually divided into two categories: general planning law (planning and building law), and sectoral planning law. Planning and building law contains provisions dealing with both cross-sectoral, mostly coordinating planning and with building. Sectoral planning law regulates the functions and responsibilities of sectoral authorities, and, in particular, formal planning approval procedures for installations or structures planned and realised by these authorities.

Planning and building law includes spatial planning law and public building law. Spatial planning law governs comprehensive (i.e. supra-sectoral) spatial planning beyond urban land-use planning at the federal, state and regional levels. One of the purposes of spatial planning law is to set principles and goals for structuring and developing an area, and for implementing such projects. It also coordinates the measures of spatial planning bodies. Planning with an impact on spatial structures include spatial structure plans, projects and other measures by means of which land is used or the spatial development or function of an area is influenced, including the use of earmarked public funds.

More specifically, spatial planning law is laid down:
- as federal spatial planning by the Federal Spatial Planning Act,
- as state and regional planning by the Federal Spatial Planning Act and, in particular, by state spatial planning acts.

Public building law can be divided into planning law (urban development law) and building regulations (building control law). Whereas planning law is governed by federal legislation, building regulations are governed by state legislation.

→ spatially relevant sectoral planning

Alternativen für die Neugestaltung oder Entwicklung eines Gebietes und die voraussichtlichen Auswirkungen der Planung öffentlich zu unterrichten; dabei ist ihnen Gelegenheit zur Äußerung und Erörterung zu geben. In der zweiten Stufe der Beteiligung werden die Entwürfe der Bauleitpläne mit der Begründung für die Dauer eines Monats öffentlich ausgelegt; während der Auslegungsfrist können Bedenken und Anregungen vorgebracht werden. Diese Bedenken und Anregungen sind von der Gemeinde zu prüfen und das Ergebnis ist mitzuteilen. (nach ARL 2003)

→ Baugesetzbuch

→ Planfeststellung

→ Öffentlichkeitsbeteiligung

→ Bauleitplanung

Planungs- und Baurecht

Die Gesamtheit der Rechtsgrundlagen im Bereich der Planung wird im Allgemeinen untergliedert in das Planungs- und Baurecht (Gesamtplanungsrecht) einerseits sowie in das Fachplanungsrecht andererseits. Das Planungs- und Baurecht enthält Vorschriften für überfachliche, meist koordinierende Planungen einerseits sowie für das Bauen andererseits. Das Fachplanungsrecht regelt Aufgaben und Zuständigkeiten der jeweiligen Fachbehörden, vor allem aber die förmliche Planfeststellung für jene Anlagen, die von diesen Behörden geplant und realisiert werden.

Dem Planungs- und Baurecht zugeordnet werden das Raumordnungsrecht und das öffentliche Baurecht. Das Raumordnungsrecht regelt insbesondere die über die Bauleitplanung hinausgehende überfachliche räumliche Planung auf Bundes- und Landesebene sowie auf regionaler Ebene. Mit Hilfe des Raumordnungsrechtes sollen zum einen Grundsätze und Ziele für die Ordnung und Entwicklung des Raumes und deren Verwirklichung festgelegt werden. Zum anderen sollen die raumbedeutsamen Maßnahmen der verschiedenen Planungsträger aufeinander abgestimmt werden. Raumbedeutsam sind dabei solche Planungen einschließlich der Raumordnungspläne, Vorhaben und sonstige Maßnahmen, durch die Raum in Anspruch genommen oder die räumliche Entwicklung oder Funktion eines Gebietes beeinflusst wird, einschließlich des Einsatzes der hierfür vorgesehenen öffentlichen Finanzmittel.

Geregelt ist das Raumordnungsrecht insbesondere
- als Bundesraumordnung im Raumordnungsgesetz des Bundes,
- als Planung auf Landesebene und als Regionalplanung im Raumordnungsgesetz des Bundes und vor allem in den Landesplanungsgesetzen.

→ federal spatial planning
→ Federal Spatial Planning Act
→ planning law, urban development law
→ building regulations, building control law

Das öffentliche Baurecht besteht aus dem Bauplanungsrecht (Städtebaurecht) und dem Bauordnungsrecht (Bauaufsichtsrecht). Während das Bauplanungsrecht der Bundesgesetzgebung unterliegt, bleibt das Bauordnungsrecht der Landesgesetzgebung vorbehalten. (nach ARL 2003)

→ Fachplanung, raumwirksame
→ Bundesraumordnung
→ Raumordnungsgesetz
→ Bauplanungsrecht/Städtebaurecht
→ Bauordnungsrecht/Bauaufsichtsrecht

Planning Approval, Planning Approval Procedure

Planning approval procedure is the key tool in sectoral planning law. The purpose of a planning approval procedure is to determine whether a particular development project with spatial impacts (mostly infrastructural projects) is to be permitted to proceed. This procedure involves weighing and balancing both the interests of the developer and any public or private interests which might be affected by the development project. It concludes with a legally binding decision. Planning approval procedure is governed by federal and state administrative procedural law and is very similar throughout the country.

Planning approval includes all of the other required decisions by public authorities (e.g. licences, permits, concessions, consent), and regulates all public-law relationships between the developer and those affected by the project. Planning approval is therefore a comprehensive concentrative and formative process. The outcome of planning approval procedure is the planning approval decision. In addition to planning approval procedure, sectoral planning law permits sectoral area designations (→ spatially relevant sectoral planning).

→ spatially relevant sectoral planning
→ federal and state sectoral planning legislation

Planfeststellung, Planfeststellungsverfahren(*)

Das Planfeststellungsverfahren ist das zentrale Instrument des Fachplanungsrechts. Die Aufgabe des Verfahrens besteht darin, die Zulässigkeit eines raumbedeutsamen Vorhabens (meist Infrastrukturvorhaben) unter Abwägung und Ausgleichung der Interessen des Trägers des Vorhabens und der von der Planung berührten öffentlichen und privaten Belange in einem förmlichen Verfahren zu prüfen und einer rechtsverbindlichen Entscheidung zuzuführen. Das Planfeststellungsverfahren ist in den Verwaltungsverfahrensgesetzen des Bundes und der Länder weitgehend einheitlich geregelt.

Charakteristisch für die Planfeststellung ist, dass sie alle für das Vorhaben erforderlichen anderen behördlichen Entscheidungen (z. B. Genehmigungen, Erlaubnisse, Bewilligungen, Zustimmungen) enthält und zugleich rechtsgestaltend alle öffentlich-rechtlichen Beziehungen zwischen dem Träger des Vorhabens und den durch den Plan Betroffenen regelt. Wesensmerkmal der Planfeststellung ist damit ihre umfassende Konzentrations- und Gestaltungswirkung. Das Ergebnis des Planfeststellungsverfahrens ist der Planfeststellungsbeschluss. Neben der Planfeststellung gibt es im Fachplanungsrecht die Möglichkeit zu fachlichen Gebietsfestsetzungen (vgl. → Fachplanung, raumwirksame). (nach ARL 2001c)

→ Fachplanung, raumwirksame
→ Fachplanungsgesetze

Planning Association

A planning association is a grouping of several municipalities for the purpose of joint, coodinated urban land-use planning. The aim is to take better account of the interests of closely interlinked communities than can be achieved if each municipality acts in isolation. This is regulated by the Federal Building Code (sections 204, 205). In accordance with its standing rules, a planning association acts on behalf of member municipalities in urban land-use planning and

Planungsverband(*)

Ein Planungsverband ist ein Zusammenschluss mehrerer Gemeinden zum Zwecke gemeinsamer, koordinierter Bauleitplanung. Dabei sollen die Belange von wechselseitig eng verflochtenen Gemeinden besser berücksichtigt werden können als bei isoliertem Handeln der Einzelgemeinden. Dies ist im Baugesetzbuch (§§ 204, 205) geregelt. Der Planungsverband tritt nach Maßgabe seiner Satzung für die Bauleitplanung und ihre Durchführung an die Stelle

implementation. In some urban regions in Baden-Württemberg, there are so-called "neighbourhood associations" (Nachbarschaftsverbände) assembling larger cities and surrounding areas, which are vested by state law with responsibility for preparatory land-use planning within their territory. In the Frankfurt/Rhine-Main region there is also a planning association set up by state law which prepares a regional preparatory land-use plan for member municipalities. In some states, so-called regional planning associations (regionale Planungsverbände) are the local government authorities responsible for spatial planning. Planning and neighbourhood associations are bodies governed by public law on the principle of the ad hoc or special purpose association of local authorities.

→ as hoc/spezial purpose association
→ preparatory land-use plan
→ regional planning authority
→ Federal Building Code
→ municipality, local authority
→ intermunicipal cooperation

Planning Control, Judical

see judical review proceedings

Planning Law, Urban Development Law

Planning law, also referred to as urban development law regulates the use of land. In particular, it governs whether and how a site can be developed. The power to enact planning law rests with the federation, the most important plank of planning law being the Federal Building Code. Other important sources of planning law are the Federal Land Utilisation Ordinance and the Plan Notation Ordinance.

→ Federal Building Code
→ Land Utilisation Ordinance
→ Plan Notation Ordinance

Planning Region

see region

Planning Safeguards

Both the Federal Building Code, the Federal Spatial Planning Act, and much sectoral planning legislation provide for planning maintenance and safeguards. These provisions address the relevance of a violation of procedural and formal requirements and the

der Gemeinden. In Baden-Württemberg existieren in einigen Stadtregionen so genannte Nachbarschaftsverbände, denen durch Landesgesetz die Flächennutzungsplanung für ihr Verbandsgebiet übertragen wurde. In der Stadtregion Frankfurt/Rhein-Main existiert ein ebenfalls durch Landesgesetz gegründeter Planungsverband, der für seine Mitgliedsgemeinden einen Regionalen Flächennutzungsplan erstellt. In einigen Bundesländern sind so genannte Regionale Planungsverbände die (kommunal verfassten) Träger der Regionalplanung. Planungs- und Nachbarschaftsverbände sind Körperschaften Öffentlichen Rechts nach dem Prinzip eines Zweckverbandes. (nach ARL 1999 und 2002)

→ Zweckverband
→ Flächennutzungsplan
→ Träger der Regionalplanung
→ Baugesetzbuch
→ Gemeinde
→ Interkommunale Kooperation

Planungskontrolle, gerichtliche

siehe Normenkontrollverfahren

Bauplanungsrecht, Städtebaurecht*

Das Bauplanungsrecht, auch als Städtebaurecht bezeichnet, regelt die Nutzung von Grund und Boden. Es bestimmt insbesondere, ob und in welcher Weise ein Grundstück bebaut werden darf Das Bauplanungsrecht liegt in der Kompetenz des Bundes. Die wichtigste Rechtsquelle des Bauplanungsrechts ist das Baugesetzbuch; weitere wichtige Rechtsquellen sind die Baunutzungsverordnung und die Planzeichenverordnung. (ARL 2001c)

→ Baugesetzbuch
→ Baunutzungsverordnung
→ Planzeichenverordnung

Planungsregion

siehe Region

Planerhaltung(*)

Sowohl das Baugesetzbuch als auch das Raumordnungsgesetz und auch viele Fachplanungsgesetze enthalten Regelungen zur Planerhaltung. Diese formulieren Voraussetzungen für die Beachtlichkeit bzw. Unbeachtlichkeit einer Verletzung von Verfah-

implications for the validity of plans. In addition to defining irrelevant faults, they also set time-limits for asserting violations of procedural or formal requirements or faults in assessment; failure to observe these time-limits leads to any violation of a regulation being deemed of no consequence. Both statutes also provide supplementary procedures to allow otherwise relevant defects to be remedied.

→ Federal Building Code
→ Federal Spatial Planning Act
→ spatially relevant sectoral planning
→ federal and state sectoral planning legislation

rens- und Formvorschriften und die daraus resultierenden Folgen für die Rechtswirksamkeit der Pläne. Neben der Definition unbeachtlicher Fehler werden Fristen festgesetzt, innerhalb derer Verfahrens- oder Formfehler sowie Mängel beim Abwägungsvorgang geltend gemacht werden müssen; nach rügelosem Ablauf dieser Fristen werden die Vorschriftverletzungen unbeachtlich. Zudem sehen die Gesetze meist ein ergänzendes Verfahren vor, mit dem bestimmte sonst beachtliche Mängel behoben werden können. (nach ARL 2003)

→ Baugesetzbuch
→ Raumordnungsgesetz
→ Fachplanung, raumwirksame
→ Fachplanungsgesetze

Polluter-Pays Principle

Under the "polluter-pays principle", the costs of preventing or removing any detriment to or strain on the environment are to be borne by whoever is responsible for giving rise to such nuisance. Increasingly, this principle is seen as creating not only a duty to "pay", but also a duty to take appropriate action. This policy instrument, which targets the originators of environmental damage, makes use of a variety of sanctions, ranging from orders and prohibitions to flexible rules governing compensation, including environmental taxes. The limits to the polluter-pays principle can be described in terms of the "common-burden principle" (or principle of burden-sharing): in situations where it is difficult to trace a particular case of environmental pollution or damage back to an individual polluter, or where for some other reason this approach would not be capable of removing an acute risk to the community, the costs of removing or repairing environmental damage have to be borne by the community at large.

Verursacherprinzip*

Das Verursacherprinzip besagt, dass die Kosten der Vermeidung oder Beseitigung einer Umweltbelastung derjenige tragen soll, der für ihre Entstehung verantwortlich ist. Zunehmend wird neben dieser Kostentragungspflicht dem Prinzip eine Handlungspflicht entnommen. Das Instrumentarium einer verursacherorientierten Umweltpolitik reicht von Geboten und Verboten über flexible Kompensationsregelungen bis hin zu Umweltabgaben. Die Grenzen des Verursacherprinzips werden durch das Gemeinlastprinzip beschrieben: Lassen sich bestimmte schädliche Umweltfolgen nur schwer oder gar nicht bestimmten Verursachern zurechnen oder können akute Notstände nicht anders beseitigt werden, dann soll ausnahmsweise die Allgemeinheit mit den Kosten für die Beseitigung von Umweltschäden belastet werden. (ARL 2003)

Polycentric/ Multicentric Spatial Structure

The term polycentric spatial structure describes an area encompassing more than one central place. Whereas in more strongly centralised countries, a dominant metropolis encourages the development of monocentric spatial structures, characterised by major transport axes radiating from one point, federal states often have a multicentric (polycentric) spatial structure. To some extent, this obviates the disadvantages of one-sided concentration and of extensive depopulation. In Germany, the polycentric spatial structure is encouraged by the distribution of important functions among cities and agglomerations (banking metropolis Frankfurt, trade-fair centres Cologne and Leipzig, federal capital Berlin,

polyzentrische/ multizentrische Raumstruktur(*)

Unter einer polyzentrischen Raumstruktur versteht man die Ausrichtung eines Raums auf mehr als einen zentralen Ort. Während v. a. in stärker zentralistisch strukturierten Staaten oftmals eine dominierende Metropole die Herausbildung einer monozentralen Raumstruktur fördert, wofür z.B. radiale, auf einen Punkt gerichtete Hauptverkehrsachsen charakteristisch sind, weisen föderal organisierte Staaten öfter eine multizentrische (polyzentrische) Raumstruktur auf Die Nachteile einseitiger Konzentrationserscheinungen auf der einen und großflächiger Entleerungstendenzen auf der anderen Seite werden dadurch teilweise vermieden. In der Bundesrepublik Deutschland wird die polyzentrische Raumstruk-

press and media centres Hamburg and Munich, etc.). A polycentric spatial structure is also propagated for the EU as a whole by the European Spatial Development Concept (ESDC). A recent model based on the principle of a polycentric spatial structure is "decentralised concentration."

→ spatial structure and settlement structure

→ decentralised concentration

→ agglomeration, conurbation, metropolitan area

tur durch die Verteilung von Spitzenfunktionen auf verschiedene Städte oder Agglomerationen verstärkt (Bankenmetropole Frankfurt, Messestädte Köln und Leipzig, Hauptstadt Berlin, Presse- und Medienstädte Hamburg und München usw.). Die polyzentrische Raumstruktur wird im Europäischen Raumentwicklungskonzept (EUREK) auch für den europäischen Raum insgesamt propagiert. Ein jüngeres, auf dem Prinzip einer polyzentrischen Raumstruktur basierendes Leitbild ist das der Dezentralen Konzentration. (nach ARL 2002)

→ Raumstruktur und Siedlungsstruktur

→ Dezentrale Konzentration

→ Agglomeration

Precautionary Principle

According to the precautionary principle, environmental policy cannot simply be a matter of repairing existing damage to the environment or in warding off impending risks, but should rather prevent damage to the environment from occurring in the first place, long before the situation becomes critical. This includes all action taken prior to the point at which imminent risks have to be dealt with, and which takes account of the need to prevent or reduce risks to the environment. The precautionary principle thus takes a longer-term view to the future and contributes to shaping the environment of the future, and in particular to securing and developing natural resources ("the natural foundations of life").

→ environmental policy

Vorsorgeprinzip*

Das Vorsorgeprinzip besagt, dass Umweltpolitik sich nicht in der Beseitigung eingetretener Schäden und der Abwehr drohender Gefahren erschöpft, sondern dass bereits das Entstehen von Umweltbelastungen unterhalb der Gefahrenschwelle verhindert werden soll. Hierzu zählen alle Handlungen, die im Vorfeld der Gefahrenabwehr, der Vermeidung oder Verminderung von Risiken für die Umwelt Rechnung tragen und die vorausschauend der Gestaltung unserer zukünftigen Umwelt, insbesondere dem Schutz und der Entwicklung der natürlichen Lebensgrundlagen dienen. (ARL 2003)

→ Umweltpolitik

Preparatory Land-Use Plan

In the wording of the Federal Building Code: "The preparatory land-use plan shall represent in basic form the types of land uses envisaged for the entire municipal territory in accordance with the intended urban development which is proposed to correspond to the anticipated needs of the municipality." The preparatory land-use plan thus sets out the municipality's proposals for future land use and makes preliminary representations on the use of plots within the municipal territory for built development or for other uses. Preparatory land-use plans identify, for example, general land-use areas (Bauflächen) and specific land-use areas (Baugebiete) (cf Land Utilisation Ordinance); land for public amenities, green spaces, agricultural and woodland areas. The preparatory land-use plan is binding only on the municipality: although it obliges the municipality to implement the plan as adapted, it does not have any direct legal effects vis-à-vis the general public. For sections of the municipal territory it can be filled in by means of binding land-use plans which are bind-

Flächennutzungsplan(*)

Im Flächennutzungsplan ist entsprechend den Regelungen des Baugesetzbuches für das gesamte Gemeindegebiet die sich aus der beabsichtigten städtebaulichen Entwicklung ergebende Art der Bodennutzung nach den voraussehbaren Bedürfnissen der Gemeinde in den Grundzügen darzustellen. Der Flächennutzungsplan enthält somit die Vorstellungen der Gemeinde über die künftige Bodennutzung und bereitet die bauliche und sonstige Nutzung der Grundstücke in der Gemeinde vor. Dargestellt werden können z. B. Bauflächen und Baugebiete (vgl. Baunutzungsverordnung), Einrichtungen des Gemeinbedarfs, Verkehrswege, Versorgungsanlagen, Grün- und Wasserflächen, Flächen für die Landwirtschaft und Wald. Der Flächennutzungsplan ist ein behördenverbindlicher Plan; er enthält somit eine Selbstbindung der Gemeinde zur Umsetzung der Planinhalte, entfaltet jedoch gegenüber dem Bürger keine unmittelbare Rechtswirkung. Für Teile des Gemeindegebietes kann er durch Bebauungspläne, die gegenüber Jedermann verbindlich sind, konkre-

ing on everyone.

Special types of preparatory land-use plan are the partial, joint, regional preparatory land-use plans.

The substantive preparatory land-use plan allows the municipality to concentrate privileged development projects (cf outer zone) in specific locations, with the exception of agricultural and forestry operations. The designation of concentration zones in the preparatory land-use plan is similar to the "suitable development area" model in the spatial structure plan.

Contiguous municipalities may and ought to prepare a joint preparatory land-use plan if their development is largely subject to common conditions and requirements, or where a joint preparatory land-use plan would facilitate an equitable balance between their various concerns. The plan can be repealed, amended, or supplemented by the participating municipalities only jointly.

A regional preparatory land-use plan also function as a regional plan and a joint preparatory land-use plan for the participating local authorities. The Federal Spatial Planning Act empowers states to prepare and introduce regional preparatory land-use plans in conurbations or where the spatial structure of the region is characterised by other interdependencies. It must conform with the procedural and substantive requirements of both the Federal Building Code and the relevant state spatial planning act. This new type of plan dispenses with one level of planning by combining regional planning and municipal preparatory urban land-use planning.

→ Land Utilisation Ordinance
→ Federal Building Code
→ urban land-use planning
→ binding land-use plan
→ suitable area for development
→ spatial structure plan
→ regional plan

tisiert werden.

Sonderformen des Flächennutzungsplans sind der Teilflächennutzungsplan, der Gemeinsame Flächennutzungsplan und der Regionale Flächennutzungsplan.

Der sachliche Teilflächennutzungsplan bietet der Gemeinde die Möglichkeit, privilegierte Vorhaben (siehe Außenbereich) mit Ausnahme land- und forstwirtschaftlicher Betriebe auf bestimmte Standorte zu konzentrieren. Die Ausweisung von Konzentrationszonen im Flächennutzungsplan ist vergleichbar mit dem Modell der Eignungsgebiete im Raumordnungsplan.

Der Gemeinsame Flächennutzungsplan kann und soll von benachbarten Gemeinden aufgestellt werden, wenn ihre städtebauliche Entwicklung wesentlich durch gemeinsame Voraussetzungen und Bedürfnisse bestimmt wird oder ein gemeinsamer Flächennutzungsplan einen gerechten Ausgleich der verschiedenen Belange ermöglicht. Der Plan kann von den beteiligten Gemeinden nur gemeinsam aufgehoben, geändert oder ergänzt werden.

Ein regionaler Flächennutzungsplan nimmt zugleich die Funktion eines Regionalplanes und diejenige eines gemeinsamen Flächennutzungsplans der beteiligten Gemeinden wahr. Das Raumordnungsgesetz ermächtigt die Länder, in verdichteten Räumen oder bei sonstigen raumstrukturellen Verflechtungen den regionalen Flächennutzungsplan - zu entwickeln und einzuführen. Er hat die verfahrensrechtlichen und materiellen Anforderungen sowohl des Baugesetzbuchs als auch des jeweiligen Landesplanungsgesetzes einzuhalten. Durch die Zusammenführung von Regionalplanung und kommunaler Flächennutzungsplanung kann letztendlich eine Planungsebene eingespart werden. (nach ARL 2002)

→ Baunutzungsverordnung
→ Baugesetzbuch
→ Bauleitplanung
→ Bebauungsplan
→ Eignungsgebiet
→ Raumordnungsplan
→ Regionalplan

Preservation Statute

see bye-law

Principles of Spatial Planning

The principles of spatial planning are general precepts concerning the development, structuring, and securing of spatial entities to be taken into account

Erhaltungssatzung

siehe Satzung

Grundsätze der Raumordnung(*)

Grundsätze der Raumordnung sind allgemeine Aussagen zur Entwicklung, Ordnung und Sicherung des Raums als Vorgaben für nachfolgende Abwägungs-

in weighing up interests and making discretionary decisions. These principles of spatial planning applicable throughout the country are set out under 15 points in Section 2 (2) of the Federal Spatial Planning Act. They are to be applied in the pursuit of sustainable spatial development, giving concrete form to this guideline, and providing general ideas for attaining it.

At the state level, these principles are worked out in greater detail and adapted to the conditions prevailing in the given state. The states are entitled to adopt additional spatial planning principles, provided they do not conflict with the principles laid down in the Federal Spatial Planning Act. The states are required to weigh and balance the principles of spatial planning and to implement them territorially and substantively as goals of spatial planning in spatial structure plans.

→ goals of spatial planning

→ spatial planning requirements

→ spatial structure plan

Priority Area

Priority areas (or sites) are areas in which priority is given to specific functions or uses which are of special significance for overall spatial structure, and where any other uses with spatial impacts which are not compatible with the designated priority functions, uses or goals are excluded. Priority areas reflect the goals of spatial planning; designation of a priority area represents the binding outcome of a weighing process and rules out any further room for discretion on the function to which the site is to be put (though not on other details). Priority areas of different types are only allowed to overlap where this does not give rise to conflicts of use.

→ assignment of functions (in spatial planning)

→ goals of spatial planning

Procedure for Derogation from Spatial Planning Goals and for Amending Spatial Planning Goals

The derogation procedure laid down in the Federal Spatial Planning Act permits local authorities, as well as sectoral planning authorities to derogate from a binding aim of spatial planning. This is, however, permitted only if derogation is justifiable on spatial planning grounds and does not affect the essential purposes of planning. The possibility of derogation means that there is no need – for example, in drawing up a regional plan – to conduct a formal proce-

oder Ermessensentscheidungen. Die für das gesamte Bundesgebiet geltenden Grundsätze der Raumordnung sind in § 2 (2) des ROG in 15 Punkten zusammengefasst. Sie sind im Sinne der Leitvorstellung einer nachhaltigen Raumentwicklung anzuwenden, konkretisieren diese und stellen diesbezüglich generelle Richtungsvorgaben dar.

Auf der Ebene der Bundesländer werden diese Grundsätze näher ausgeformt und an den landesspezifischen Rahmenbedingungen ausgerichtet. Auch können die Länder weitere Grundsätze der Raumordnung aufstellen, soweit sie den im Raumordnungsgesetz festgelegten Grundsätzen nicht widersprechen. Die Länder sind dazu verpflichtet, die Grundsätze der Raumordnung gegeneinander und untereinander abzuwägen und in Raumordnungsplänen als Ziele der Raumordnung räumlich und sachlich zu konkretisieren. (nach ARL 2002 und 2003)

→ Ziele der Raumordnung

→ Erfordernisse der Raumordnung

→ Raumordnungsplan

Vorranggebiet(*)

Vorranggebiete sind Gebiete, die für bestimmte raumbedeutsame Funktionen oder Nutzungen vorgesehen sind und in denen andere raumbedeutsame Nutzungen ausgeschlossen sind, soweit diese mit den vorrangigen Funktionen, Nutzungen oder Zielen der Raumordnung nicht vereinbar sind. Vorranggebiete haben den Charakter von Zielen der Raumordnung; ihre Inhalte sind endgültig abgewogen und lassen den Adressaten keinen diesbezüglichen Entscheidungsspielraum mehr, wohl aber einen Ausformungsspielraum. Eine Überlagerung unterschiedlicher Vorranggebiete ist nur dann zulässig, wenn daraus keine Nutzungskonflikte erwachsen. (Schmidt-Eichstaedt nach ARL 2003)

→ Funktionszuweisungen in der Raumordnung und Landesplanung

→ Ziele der Raumordnung

Zielabweichungsverfahren und Zieländerungsverfahren(*)

Das Zielabweichungsverfahren stellt ein im Raumordnungsgesetz verankertes Verfahren dar, mit dem es vor allem den planenden Kommunen, aber auch Fachplanungsbehörden möglich ist, von einem verbindlichen Ziel der Raumordnung abzuweichen. Voraussetzung dafür ist, dass die Abweichung unter raumordnerischen Gesichtspunkten vertretbar ist und die Grundzüge der Planung nicht berührt werden. Die Möglichkeit der Abweichung bedeutet, dass die

dure to amend a spatial planning goal. Applications to initiate procedures for amending spatial planning goals can be made by public bodies, persons or entities under private law that perform public functions on behalf of the Federation, and local territorial authorities required to comply with the objectives in question. The details of amendment procedure are a matter for the states.

→ goals of spatial planning

→ spatial planning

Durchführung eines förmlichen Zieländerungsverfahrens, z. B. bei einem Regionalplan, nicht nötig wird. Einen Antrag auf Einleitung eines Zieländerungsverfahrens können insbesondere die öffentlichen Stellen, Personen des Privatrechts, die für den Bund öffentliche Aufgaben durchführen, sowie die kommunalen Gebietskörperschaften stellen, die das betreffende Ziel der Raumordnung zu beachten haben. Die Ausgestaltung des Zieländerungsverfahrens im Einzelnen bleibt den Ländern überlassen. (Schmidt-Eichstaedt nach ARL 2003)

→ Ziele der Raumordnung

→ Raumordnung

Project Development and Project Developer

The term "project development" denotes the sum of all studies, decisions, plans, and measures necessary or helpful in carrying out a project (e.g. building a shopping centre, residential block, or office building); it is accordingly a management task. The job of project development is to elaborate a concept for the given objective and its attainment. It seeks to bring together all the parties involved, to coordinate individual works, and to deliver a finished product. The three stages of project development are project idea, project study, and project realisation. The project developer is a member of the group involved in project development or a member of the project development company.

Projektentwicklung und Projektentwickler

Projektentwicklung bezeichnet die Summe aller Untersuchungen, Entscheidungen, Planungen und Maßnahmen, die erforderlich oder zweckmäßig sind, um ein Projekt (z. B. die Errichtung eines Einkaufszentrums, Wohnobjekts oder Bürogebäudes) durchzuführen; es ist somit eine Managementaufgabe. Die Aufgabe der Projektentwicklung ist das Herausarbeiten eines Konzepts für die jeweilige Zielsetzung sowie dessen Umsetzung. Dabei verfolgt sie das Ziel, alle Beteiligten zusammenzuführen, die Einzelleistungen zu koordinieren und ein fertiges Produkt zu liefern. Die drei Phasen der Projektentwicklung sind die Projektidee, die Projektstudie und schlusslich die Projektrealisierung. Der Projektentwickler ist dabei Teil des an der Projektentwicklung beteiligten Personenkreises bzw. Mitglied der Projektentwicklungsgesellschaft. (nach Falk 2000)

Projects with Privileged Status

see outer zone, undesignated outlying areas

Privilegierte Vorhaben

siehe Außenbereich

Property, Site, Parcel, Lot, Plot

"Grundstück" is a very broad term, to be translated, depending on context, as "property," "site," "parcel," "lot," "plot," etc. Common to all these concepts is that of a bounded and cohesive piece of land capable of being put to use for some purpose. Every property is numbered and recorded at the public land registry on a separate property sheet.

→ land register

→ land survey register

Grundstück*

Ein Grundstück wird allgemein als abgegrenztes, zusammenhängendes Stück der Erdoberfläche definiert, das in irgendeiner Weise genutzt werden kann. Jedes Grundstück wird, mit einer laufenden Nummer versehen, im Grundbuch auf einem Grundbuchblatt eingetragen. (ARL 2003)

→ Grundbuch

→ Liegenschaftskataster

Protected Status

The protected status tools is used in many fields and on many levels, in particular in nature conservation and the conservation of historic monuments.

The fundamental aspects of nature conservation are dealt with in the Federal Nature Conservation Act, which describes the care and development of areas and objects worthy of protection as a central task. Especially valuable parts of nature and landscape can be declared protection areas. A distinction is made between area protection categories (including nature conservation areas, biosphere reserves, national parks, landscape conservation areas, and nature parks) and so-called object protection categories (including natural monuments and protected components of landscapes).

In the field of environmental law, protected status can also be conferred to protect water resources (water conservation areas for groundwater and surface water) and soil (soil conservation areas).

To conserve the cultural heritage, buildings and architectural ensembles can be placed under protection (conservation of historic monuments) Buried cultural monuments can be protected by designating protected archaeological areas. The Federal Building Code also contains provisions relating to protected status for areas (preservation statute) and social milieus (neighbourhood preservation statute).

Not only can natural and cultural resources be protected; protected status can also be conferred in the economic and military fields (mining protection areas, restricted military areas).

→ protection area
→ nature conservation
→ conservation of historic monuments
→ bye-law

Unterschutzstellung(*)

Das Instrument der Unterschutzstellung findet auf vielen Ebenen Anwendung. Hierbei sind vor allem die beiden Bereiche Naturschutz und Denkmalschutz zu nennen.

Die Grundzüge des Naturschutzes sind im Bundesnaturschutzgesetz geregelt, das Pflege und Entwicklung von schutzwürdigen Flächen und Objekten als eine zentrale Aufgabe bezeichnet. Besonders wertvolle Teile von Natur und Landschaft können als Schutzgebiete ausgewiesen werden. Es wird zwischen Flächenschutzkategorien (hierzu zählen Naturschutzgebiete, Biosphärenreservate, Nationalparke, Landschaftsschutzgebiete und Naturparke) und sog. Objektschutzkategorien (dazu gehören Naturdenkmale und geschützte Landschaftsbestandteile) unterschieden.

Im Bereich des Umweltrechtes können darüber hinaus Unterschutzstellungen zum Schutz von Wasser (Wasserschutzgebiete für Grund- und Oberflächenwasser) und Boden (Bodenschutzgebiet) erfolgen.

Zur Bewahrung von Kulturgütern können Gebäude und bauliche Ensembles unter Denkmalschutz gestellt werden. Bodendenkmale können durch Grabungsschutzgebiete geschützt werden. Auch das Baugesetzbuch enthält Regelungen zur Unterschutzstellung von Gebieten (Erhaltungssatzung) und sozialen Milieus (Milieuschutzgebiet).

Neben den natürlichen und kulturellen Ressourcen dient die Unterschutzstellung auch der Wirtschaft (Bergbauschutzgebiete) und dem Militär (Militärisches Sperrgebiet). (nach ARL 2002)

→ Schutzbereich
→ Naturschutz
→ Denkmalschutz
→ Satzung

Protection Area

A protection area is an area of land on which certain types of use are prohibited or restricted in order to provide protection for some other use. In terms of the direction of the protection afforded, two categories of protected areas can be distinguished:

- Protection areas which themselves require protection from adverse impacts; this category includes nature conservation and water protection areas.
- Protection areas exposed to such strong impacts that they can be used only to a limited extent or not at; this category includes the noise protection areas alongside busy motorways or around airports.

Schutzbereich(*)

Schutzbereich ist eine Fläche, auf der zum Schutz bestimmter Nutzungen bestimmte andere Nutzungen beschränkt oder ausgeschlossen sind. In Bezug auf die Schutzwirkungsrichtung sind zwei Kategorien von Schutzbereichen zu unterscheiden:

- Schutzbereiche, die selbst vor beeinträchtigenden Einwirkungen geschützt werden sollen (Erzielen von Einwirkungsschutz); zu dieser Kategorie zählen z. B. Naturschutzgebiete oder Wasserschutzgebiete.
- Schutzbereiche, die unvermeidlich so starken Einwirkungen ausgesetzt sind, dass sie nur beschränkt oder gar nicht genutzt werden dürfen (Erzielen von Auswirkungsschutz); zu dieser Kategorie zählen

→ nature conservation

→ nature conservation area, nature reserve

z.B. die Lärmschutzzone seitlich einer stark befahrenen Autobahn oder Lärmschutzzonen von Flugplätzen. (Schmidt-Eichstaedt nach ARL 2003)

→ Naturschutz

→ Naturschutzgebiet

Provision of Local Public Infrastructure

Even if all other planning regulations are complied with, development projects can be permitted only where there is certainty that the site will be properly serviced and integrated by the provision of the necessary public infrastructure. The infrastructure required includes roads and utilities (electricity, water, sewage). Responsibility for the provision of the necessary infrastructure rests with the municipality. This financial burden on municipalities is eased by service connection charges payable by property owners to share the cost of land improvement for initial provision, particularly of vehicular and pedestrian infrastructure (roads, pathways, squares). The Federal Building Code does not provide for property owners to bear any of the costs of servicing the land, i.e. connecting it to utilities; this may, however, be required under state legislation. Under section 124 of the Federal Building Code, the municipality may contract out land improvement to third parties.

→ Federal Building Code

→ municipality, local authority

Erschließung(*)

Bauliche Vorhaben sind bei Erfüllung aller planungsrechtlichen Voraussetzungen nur dann zulässig, wenn die Erschließung gesichert ist. Eine gesicherte Erschließung setzt das Vorhandensein von Straßen sowie Ver- und Entsorgungsleitungen (Strom, Wasser, Abwasser) voraus. Die Aufgabe der Erschließung, die sog. Erschließungslast, obliegt der Gemeinde. Zur finanziellen Entlastung der Gemeinde werden die Grundstückseigentümer über die Erschließungsbeiträge an den Kosten für die erstmalige Herstellung insbesondere der verkehrlichen Erschließung (Straßen, Wege, Plätze) beteiligt. Eine Beteiligung der Anlieger an den Kosten für Ver- und Entsorgungsleitungen ist im Baugesetzbuch nicht vorgesehen; dies kann jedoch nach Landesrecht vorgeschrieben werden. Gemäß § 124 BauGB kann die Gemeinde die Erschließung durch Vertrag einem Dritten übertragen. (nach ARL 2001b)

→ Baugesetzbuch

→ Gemeinde

Public Agencies

see public authorities participation

Träger öffentlicher Belange

siehe Behördenbeteiligung

Public Authorities Participation

The Federal Building code regulates procedure for public authority participation in urban land-use planning in a similar manner to public participation, since planning can affect both matters falling within the remit of public authorities, agencies, public associations, and neighbouring municipalities and the public interest. Procedures provide for a complete account of interests affected by planning and prepare the process of weighing (or balancing) public and private interests.

The law requires two-phase (early and formal) participation by public authorities and other public agencies, i.e. institutions to which public sector tasks have been assigned by law or pursuant to a law. In the first phase, public authorities and other agencies whose areas of responsibility are or could be affected by planning are to be informed at the earliest pos-

Behördenbeteiligung

Das Verfahren zur Beteiligung der Behörden im Rahmen der Bauleitplanung wird analog zur Öffentlichkeitsbeteiligung durch das Baugesetzbuch geregelt, da die Aufgabenbereiche von Behörden, Dienststellen, öffentlichen Verbänden und benachbarten Gemeinden ebenso wie die Belange der Öffentlichkeit durch die Planung berührt sein können. Das Verfahren dient der vollständigen Ermittlung der von der Planung berührten Belange und bereitet den Prozess der Abwägung öffentlicher und privater Belange vor.

Gesetzlich vorgeschrieben ist eine zweistufige (frühzeitige und förmliche) Beteiligung der Behörden und der sonstigen Träger öffentlicher Belange, d.h. Institutionen, denen durch Gesetz oder aufgrund eines Gesetzes öffentliche Aufgaben zugewiesen sind. In der ersten Stufe sind die Behörden und sonstigen

sible date about the general aims and purposes of the planning, about alternatives for the reorganisation or development of an area, and about the potential impacts of planning, and are to be requested to state their views. In the second phase, public authorities are to comment on the draft plan and on the explanatory memorandum. These comments are to be limited to the remit of the public authority in question and are to be delivered within a month.

→ plan preparation and public participation procedure

→ weighing of interests

Public Building Law

see planning and building law

Public Participation

Participation in spatial planning by the general public is intended to ensure that all conceivable interests are given due regard, and takes into account that the addressees of planning are more likely to accept it if they can identify with its content. The public can be involved in many ways.

Participation in urban land-use planning is stipulated in the Federal Building Code, and public involvement in state and regional planning is required under the Federal Spatial Planning Act and state spatial planning acts. Moreover, the public is required to be involved in spatial planning in the context of environmental assessment (EA) (Federal Building Code, Federal Spatial Planning Act) and environmental impact assessment (EIA).

Local authorities are required to advertise the aims and purposes of planning measures and to provide opportunities for the general public to be heard. Participation takes place in two stages. The first provides for the public to be informed at the earliest possible date through public advertisement of the general aims and purposes of the plan and of alternative proposals for the reorganisation or development of the planning area, and of the foreseeable impacts of the plan; at this point members of the public are to be given the opportunity to express their views and to gain further clarification. In the second stage, draft plans and explanatory memorandum are placed on public display for a period of one month. During this period, members of the public are entitled to voice any objections to the plan or to make recommendations.

In state and regional planning, the states determine in their state spatial planning acts whether and to what extent the public is to be involved in preparing spatial

Träger, deren Aufgabenbereich durch die Planung berührt wird bzw. werden kann, möglichst frühzeitig über die allgemeinen Ziele und Zwecke der Planung, Alternativen für die Neugestaltung oder Entwicklung eines Gebietes und die voraussichtlichen Auswirkungen der Planung zu unterrichten und zur Äußerung aufzufordern. In der zweiten Stufe sollen die Behörden Stellungnahmen zum Planentwurf und zur Begründung formulieren. Die Stellungnahmen sind auf den jeweiligen Aufgabenbereich der Behörde zu beschränken und innerhalb eines Monats abzugeben. (nach Schmidt-Eichstaedt 2005)

→ Aufstellungs- und Beteiligungsverfahren

→ Abwägung der Belange

Öffentliches Baurecht

siehe Planungs- und Baurecht

Öffentlichkeitsbeteiligung(*)

Eine Beteiligung der Öffentlichkeit (der Bürger) an der räumlichen Planung zielt darauf ab, sicherzustellen, dass alle denkbaren Interessen berücksichtigt werden und trägt ferner der Erkenntnis Rechnung, dass die Adressaten der Planung diese umso eher akzeptieren, je mehr sie sich mit den Inhalten identifizieren können. Öffentlichkeitsbeteiligung kann durch eine Vielzahl von Methoden erfolgen.

Verbindlich geregelt ist die Beteiligung der Öffentlichkeit im Rahmen der Bauleitplanung im Baugesetzbuch und im Rahmen der Landes- und Regionalplanung im Raumordnungsgesetz und den jeweiligen Landesplanungsgesetzen. Außerdem ist die Öffentlichkeit an der räumlichen Planung im Rahmen der Umweltprüfung (Baugesetzbuch, Raumordnungsgesetz) und der Umweltverträglichkeitsprüfung (UVP) einzubeziehen.

In der Bauleitplanung legt die Gemeinde Ziele und Zwecke der Planung öffentlich dar und gibt allgemein Gelegenheit zur Äußerung. Dabei erfolgt die Öffentlichkeitsbeteiligung in zwei Stufen: Die erste Stufe sieht vor, die Bürger möglichst frühzeitig über die allgemeinen Ziele und Zwecke der Planung, Alternativen für die Neugestaltung oder Entwicklung eines Gebietes und die voraussichtlichen Auswirkungen der Planung öffentlich zu unterrichten; dabei ist ihnen Gelegenheit zur Äußerung und Erörterung zu geben. In der zweiten Stufe der Beteiligung werden die Entwürfe der Bauleitpläne mit der Begründung für die Dauer eines Monats öffentlich ausgelegt. Während der Auslegungsfrist können Bedenken und Anregungen vorgebracht werden.

In der Landes- und Regionalplanung bestimmen die Länder durch ihre Landesplanungsgesetze, ob und in welchem Umfang die Öffentlichkeit an der Auf-

structure plans and in spatial planning procedures.

Participation is most intensive in informal planning approaches.

→ plan preparation procedure and participation procedure
→ Federal Building Code
→ Federal Spatial Planning Act
→ strategic environmental assessment
→ environmental impact assessment, EIA
→ informal planning
→ spatial planning procedure

stellung der Raumordnungspläne beteiligt und in das Raumordnungsverfahren einbezogen wird.

Am intensivsten wird Öffentlichkeitsbeteiligung bei den informellen Planungsansätzen praktiziert. (nach ARL 2003)

→ Aufstellungs- und Beteiligungsverfahren
→ Baugesetzbuch
→ Raumordnungsgesetz
→ Strategische Umweltprüfung
→ Umweltverträglichkeitsprüfung
→ Informelle Planung
→ Raumordnungsverfahren

Public Planning Agency/Authority

Planning agencies are institutions vested with competence for planning at the various levels of comprehensive and sectoral planning by federal or state law. Public planning authorities are the public authorities and agencies responsible for spatial planning and which thus determine the use of land and influence the spatial development of an area.

→ federal and state sectoral planning legislation

öffentliche Planungsträger*

Planungsträger ist diejenige Institution, der nach Bundes- oder Landesrecht die Kompetenz für die Planung auf den einzelnen Ebenen der Gesamtplanung oder der Fachplanungen eingeräumt wird. Öffentliche Planungsträger sind solche Behörden und Stellen, die raumbeanspruchende Planungen und Maßnahmen festsetzen und damit die Bodennutzung bestimmen oder die räumliche Entwicklung eines Gebietes beeinflussen. (ARL 2003)

→ Fachplanung, räumliche

Public Service Provision

The term “Daseinsvorsorge” refers to governmental provision of essential social, cultural, and economic goods and services for the population. This includes public infrastructural facilities for the general public – traffic and transport facilities, gas, water and electricity supply, refuse collection, sewage disposal, educational and cultural institutions, hospitals, cemeteries, etc. Public service provision in this sense is among the most important functions local authorities perform on their own responsibility.

→ local self-government

Daseinsvorsorge, öffentliche

Öffentliche Daseinsvorsorge umschreibt die staatliche Aufgabe soziale, kulturelle und wirtschaftliche Güter und Leistungen bereitzustellen, um die Grundversorgung der Bevölkerung sicher zu stellen. Darunter fallen öffentliche Infrastruktureinrichtungen für die Allgemeinheit, also das Verkehrs- und Beförderungswesen, die Gas-, Wasser-, und Elektrizitätsversorgung, Müllabfuhr, Abwasserbeseitigung, Bildungs- und Kultureinrichtungen, Krankenhäuser, Friedhöfe usw. Die Daseinsvorsorge zählt zu den wichtigsten kommunalen Selbstverwaltungsaufgaben. (nach BBR 2005c:363)

→ Kommunale Selbstverwaltung

Public Transport Plan

see transport planning

Nahverkehrsplan

siehe Verkehrsplanung

Public-Private-Partnership

Public private partnership (PPP) is the term applied to a form of organised cooperation between institutions and persons from various areas of the public and private sectors. The purpose of such partner-

Public-Private-Partnership(*)

Unter Public Private Partnership (öffentlich-private Partnerschaft) wird eine Form der organisierten Zusammenarbeit zwischen Institutionen und Personen aus verschiedenen Bereichen des öffentlichen und

ships is the joint performance of urban development and regional development functions that none of the parties involved can handle alone and which are of benefit to all concerned. Both the increasing privatisation of public enterprises and the growing trend towards carrying out complex projects on a one-stop basis have made public-private partnerships an increasingly important strategy. They are used for a wide range of local government functions and in many policy areas. PPPs are entrusted with local utilities, urban development, housing, environmental protection, and cultural, recreational, and sports facilities. There are three types of PPP:

1. informal cooperation between local government executives,
2. cooperation under contract,
3. quasi-public enterprises (especially in the utility sector).

The most frequent form of PPP is a cooperative arrangement regulated by contract. Examples are the operator model (operator contract), the leasing model (leasing contract), management contracts, urban-development contracts, and project and infrastructure plans. The operator model provides for a private entity to act in agreement with the municipality in setting up or rehabilitating and operating a facility of which it is the owner but which is put at the service of the municipality as a public facility. Management contracts entrust the running of public buildings and facilities to private entities. Municipal leasing models provide for private investors to finance and build infrastructural facilities or buildings, which are then leased to the municipality.

privaten Sektors verstanden. Die Partnerschaften dienen der gemeinsamen Bewältigung von Aufgaben der Stadt- und Regionalentwicklung, die keiner der beteiligten Akteure alleine bewältigen kann, woraus aber beide Parteien einen positiven Nutzen ziehen.

Sowohl die zunehmende Privatisierung öffentlicher Betriebe als auch die wachsende Tendenz privater Akteure, die Realisierung komplexer Vorhaben aus einer Hand anzubieten, haben dazu geführt, dass den Public Private Partnerships (PPP) eine immer größere Bedeutung zukommt. Sie werden in den unterschiedlichsten kommunalen Aufgaben- und Politikfeldern eingesetzt. PPP kommen in der kommunalen Ver- und Entsorgung, in der Stadtentwicklung, im Wohnungswesen, im Umweltschutz und auch beim Betrieb von Kultureinrichtungen oder von Freizeit- und Sportstätten zum Einsatz. Die Formen der Partnerschaft lassen sich in drei Gruppen unterteilen:

1. Informelle Kooperationen lokaler Führungskräfte,
2. Vertraglich geregelte Kooperationsansätze,
3. Gemischtwirtschaftliche Unternehmen (v. a. in der Versorgungswirtschaft).

Die häufigste Form von PPP sind Kooperationsansätze, die über Verträge geregelt werden. Beispiele dafür sind das Betreibermodell (Betreibervertrag), das Leasingmodell (Leasingvertrag), Managementverträge, städtebauliche Verträge und Vorhaben- und Erschließungpläne. Das Betreibermodell sieht vor, dass ein Privater im einvernehmlichen Zusammenwirken mit der Kommune eine Einrichtung herstellt bzw. saniert und betreibt, deren Eigentum er ist, die aber der Gemeinde als öffentliche Einrichtung gewidmet wird. Mit Managementverträgen wird die Bewirtschaftung von öffentlichen Gebäuden und Einrichtungen auf Private übertragen. In kommunalen Leasingmodellen werden Infrastruktureinrichtungen oder Gebäude von privaten Investoren finanziert und gebaut und anschließend an die Kommune vermietet. (nach Heinz 2005 und ARL 2002)

Realignment and Consolidation of Aagricultural Land Holdings

The purpose of realigning or replotting agricultural land holdings is to promote efficient agriculture and forestry by assembling economically viable units of land where the land in single ownership may be dispersed and thus not conducive to efficient management. The realignment (or consolidation) process includes all the measures needed to improve the basic conditions for economic operations, to reduce unnecessary labour, and to facilitate economic activity (e.g. by laying out paths, tracks and ditches). In the course of time, the original purpose of realigning agricultural land holdings has been reappraised and

Flurbereinigung*

Im Rahmen der traditionellen Flurbereinigung soll durch die Zusammenlegung und wirtschaftliche Gestaltung von zersplittertem oder unwirtschaftlich geformtem ländlichem Grundbesitz nach betriebswirtschaftlichen Gesichtspunkten die landwirtschaftliche und forstwirtschaftliche Erzeugung gefördert werden. Dabei sollen alle Maßnahmen getroffen werden, durch die die Grundlagen der Wirtschaftsbetriebe verbessert werden, der Arbeitsaufwand vermindert und die Bewirtschaftung erleichtert wird (z. B. Schaffung von Wegen und Gräben). Dieses ursprüngliche Aufgabenfeld hat sich im Laufe der Zeit

modified. Realignment is today seen as an integral means of re-ordering plot boundaries in rural areas and has an impact on planning and for the general concept of land reallocation which extend well beyond the agricultural sector. Nowadays, realignment may be undertaken for purposes of landscape conservation and nature protection, flood protection and village regeneration.

→ agricultural structure development planning

verändert und weiterentwickelt. Heute ist die Flurbereinigung als integrale Neuordnungsmaßnahme im ländlichen Raum zu verstehen, deren planerische und boden-ordnerische Auswirkungen weit über den rein agrarischen Sektor hinausgehen. Tätigkeitsfelder der Flurbereinigung sind heutzutage z. B. auch die Landschaftspflege und der Naturschutz, der Hochwasserschutz sowie Dorferneuerungsvorhaben. (nach ARL 2003)

→ Agrarstrukturelle Entwicklungsplanung

Region

The term region is used in a wide range of contexts. It denotes an area that forms a unit owing to special characteristics. A region is always a middle-sized spatial unit, that is to say part of a larger unit and at the same time the sum of a group of smaller units. Since the beginning of the 1990s, "region" has become a vogue word, and even in the field of spatial planning a number of institutions have come to use it with reference to themselves, e.g. counties, regional associations, administrative districts, the states of the federation at the EU level, and innumerable informal regional cooperation projects.

German regional planning is understood as a level of planning situated between the state and municipal levels. The area covered by a regional plan, the planning region, is thus, as defined above, both part of a state and a sum of counties and municipalities. Planning regions are constituted in keeping with spatial planning requirements. Theoretically they should correspond to the catchment area of a high-order centre (as special characteristic), but in practice they are the territories of the counties affected or of an administrative district (Regierungsbezirk).

For reporting purposes, federal spatial planning defines so-called spatial planning regions, which, however, often coincide with those for regional planning.

Communities linked by strong commuter traffic form a common labour-market region.

→ regional planning

→ spatial planning

→ state

→ intermunicipal cooperation

→ catchment area

→ central-place system

Region

Der Begriff Region wird in den unterschiedlichsten Zusammenhängen verwendet. Er bezeichnet einen räumlichen Bereich, der aufgrund spezieller Merkmale eine Einheit bildet. Eine Region ist dabei immer eine Raumeinheit mittlerer Größenordnung, also ein Teil einer größeren Einheit und gleichzeitig die Summe einer Gruppe kleinerer Einheiten. Die „Region" wurde seit Beginn der 1990er Jahre zum Modebegriff, selbst im Bereich der Raumordnung beanspruchen ihn eine Reihe von Institutionen für sich, z. B. Landkreise, Regionalverbände, Regierungsbezirke, die Bundesländer auf EU-Ebene sowie zahlreiche informelle regionale Kooperationen.

Die deutsche Regionalplanung versteht sich als Planungsebene, die räumlich zwischen der staatlichen (Land) und der kommunalen (Gemeinden) Ebene angesiedelt ist. Der Geltungsbereich eines Regionalplans, die Planungsregion, ist somit wie oben definiert ein Teil des Landes und gleichzeitig eine Summe von Kreisen und Gemeinden. Planungsregionen werden den Erfordernissen der Raumordnung entsprechend gebildet. Sie sollen theoretisch dem Verflechtungsbereich eines Oberzentrums (als spezielles Merkmal) entsprechen, in der Praxis handelt es sich jedoch um die Territorien der betroffenen Landkreise oder eines Regierungsbezirks.

Die Bundesraumordnung definiert für ihre Berichterstattung so genannte Raumordnungsregionen, die sich jedoch in vielen Fällen mit denen der Regionalplanung decken.

Gemeinden, die durch starke Pendlerströme miteinander verflochten sind, bilden eine gemeinsame Arbeitsmarktregion. (nach König 2006; ARL 2001b und 2001c)

→ Regionalplanung

→ Raumordnung

→ Land

→ Interkommunale Kooperation

→ Verflechtungsbereich

→ Zentrale-Orte-System

Regional Conference

In recent years, regional conferences have increasingly been convened in connection with the framing of regional development strategies and action programmes. Especially where complex issues of a regional nature are involved, regional conferences are a way of launching a process of information sharing and coordination among regional actors – predominantly representatives of sectoral authorities, but also with as broad a cross-section of the general public as can be achieved. Just like round-tables and hearings, etc., regional conferences call for skilled moderators. Where the necessary professional skills are available among the permanent administrative staff, this role can be performed by a representative of the regional planning authority.Owing to both the sheer physical size of a region and the wide range of issues involved in many regional problems, a division of labour is advisable in organising a regional conference. This might involve setting up working groups, a regional advisory council with its own offices, a regional office, or a development agency.

→ regional development strategy/ concept
→ moderation and mediation
→ regional planning
→ informal planning

Regionalkonferenz*

In Verbindung mit der Aufstellung von Regionalen Entwicklungskonzepten und Handlungsprogrammen werden in zunehmendem Maße Regionalkonferenzen durchgeführt. Sie bilden vor allem bei komplexen regionalen Problemstellungen den Auftakt für einen Informations- und Abstimmungsprozess mit den Akteuren einer Region, insbesondere den Vertretern der Fachressorts, aber auch mit einer möglichst breiten Öffentlichkeit. Regionalkonferenzen erfordern, wie Runde Tische, Hearings etc., einen kompetenten Moderator. Sofern die personellen und sachlichen Potenziale zur Verfügung stehen, kann diese Rolle auch von der Regionalplanung übernommen werden. Wegen der räumlichen Größenordnungen und der inhaltlichen Spannbreite vieler regionaler Probleme sollte eine Regionalkonferenz arbeitsteilig organisiert werden. Hierfür können zum Beispiel Arbeitsgruppen, ein regionaler Beirat mit eigener Geschäftsstelle, ein Regionalbüro oder eine Entwicklungsagentur eingerichtet werden. (ARL 2003)

→ Regionale Entwicklungskonzepte
→ Moderation und Mediation
→ Regionalplanung
→ Informelle Planung

Regional Development Strategy/ Concept

The role of a regional development strategy or concept, which contains a fully implementable programme of action, is to highlight the perspectives for joint development and to coordinate all major development schemes within the region. Bringing together the various protagonists on a voluntary basis allows region's endogenous potentials and strengths to be identified, mobilised, and targeted. Regional development strategies, which have no legally binding force and have a short to medium-term horizon, supplement the formal, legally binding and longer-term instruments of planning (spatial structure plans). The regional development strategy achieves a certain binding force through the self-commitment of actors and through the subsidies associated with them. Based on the results of SWOT analysis and a guiding vision for the region, regional development strategies set priorities, indicate how various measures interrelate, and put forward orientational values and proposals to coordinate the deployment of funding. The use of a regional development strategy to propose alternatives for dealing with selected planning problems, or for particular sub-regions, adds to the general acceptance with which planning is met: it allows procedures to resolve conflicts to be set in

Regionales Entwicklungskonzept*

Regionale Entwicklungskonzepte (REK) haben die Aufgabe, aus einer Region heraus gemeinsame Entwicklungsperspektiven aufzuzeigen und alle wesentlichen Entwicklungsvorhaben dieser Region koordiniert in umsetzungsfähigen Handlungsprogrammen zusammenzufassen. Durch Zusammenführung der verschiedenen regionalen Akteure sollen auf freiwilliger Basis die endogenen Kräfte und Potenziale der Region erkannt, mobilisiert und zielgerichtet gebündelt werden. Ein REK soll die formellen, verbindlichen und langfristig orientierten Planungsinstrumente (hier vor allem den Regionalplan) ergänzen. Es ist hinsichtlich seiner Aussagen rechtlich nicht verbindlich und kurz- bis mittelfristig angelegt. Ein gewisses Maß an Verbindlichkeit erhalten die REK durch die Selbstbindung der beteiligten Akteure sowie durch an sie geknüpfte Fördermittel. Im REK sind auf der Grundlage einer Stärken-Schwächen-Analyse und eines Leitbildes für die Region Prioritäten festzusetzen, Maßnahmenbezüge darzustellen sowie Orientierungswerte und Vorschläge zur Koordination von Fördermitteln zu unterbreiten. Die Erarbeitung von Planungsalternativen für ausgewählte Einzelprobleme oder für Teilräume in einem REK führt auch zur Verbesserung

train in good time.

→ region
→ regional plan
→ informal planning
→ endogenous development potential
→ regional conference

Regional Economic Policy

see regional policy

Regional Land Pool

Land pools are the outcome of impact mitigation compensation measures under nature conservation and building law. They take advantage of the possibility under the Federal Building Code to provide compensation in the form of mitigation measures elsewhere than the place of intrusion, even on the territory of another municipality. A regional or intermunicipal dimension to land pooling can be justified by the presence of a user network covering several municipalities and by a cross-municipality supply of land. Regional land pools include many models differing in spatial extent (ranging from single sites to regional park concepts), responsibility structures (e.g. legal form), and in scope (e.g. acquisition of land or mediating compensatory sites). This requires the identification of suitable land and measures in a coordinated nature conservation compensation concept, and compensation management addressing the acquisition of compensatory sites, the implementation of measures, legal safeguards, use, and upkeep. Regional land pools are established to give better access to suitable compensation land (wider choice); the less expensive, more effective and forward-looking provision of land (including stocking nature conservation measures to be set off at a later date (so-called "eco-account"); and environmentally more efficient compensation measures (taking account of natural landscape units, the regional interconnection of landscape areas).

→ impact mitigation regulation
→ Federal Building Code
→ regional park
→ land management

der Akzeptanz von Planung insgesamt. Es werden damit Konfliktlösungsprozesse rechtzeitig in Gang gesetzt. (nach ARL 2003)

→ Region
→ Regionalplan
→ Informelle Planung
→ endogenes Entwicklungspotential
→ Regionalkonferenz

regionale Wirtschaftspolitik

siehe Regionalpolitik

Regionaler Flächenpool

Flächenpools sind das Ergebnis der Bündelung von Flächen bzw. Flächen und Maßnahmen zur Durchführung von Kompensationsmaßnahmen nach der natur- bzw. baurechtlich verankerten Eingriffsregelung. Dabei nutzen sie die im Baugesetzbuch eröffnete Möglichkeit, die Kompensation auch als Ausgleichsmaßnahmen an anderem Ort, auch auf dem Gebiet einer anderen Gemeinde, durchzuführen. Eine regionale bzw. interkommunale Dimension eines Flächenpools kann sowohl in seiner mehrere Kommunen umfassenden Nutzerstruktur als auch in einem gemeindeübergreifenden Flächenangebot des Pools begründet liegen. Unter den Begriff regionaler Flächenpools fallen eine Vielzahl unterschiedlicher Modelle, etwa hinsichtlich der räumlichen Zuschnitte (Einzelflächen bis hin zu Regionalparkkonzepten), der Trägerstrukturen (z. B. Rechtsform) und ihrer Arbeitstiefe (z. B. Flächenerwerb oder Vermittlung von Ausgleichsflächen). Voraussetzungen sind die Identifikation geeigneter Flächen und Maßnahmen in einem naturschutzfachlich abgestimmten Kompensationskonzept sowie ein Kompensationsmanagement zur Beschaffung, rechtlichen Sicherung, Maßnahmenumsetzung, Nutzung und Unterhaltung der Kompensationsflächen sowie verantwortlichen Beobachtung. Gründe für die Einrichtung regionaler Flächenpools liegen in der besseren Bereitstellung geeigneter Kompensationsflächen (größerer Suchraum), der preisgünstigeren, effektiveren und vorausschauenden Flächenbereitstellung (u. a. Bevorratung von Maßnahmen des Naturschutzes bei späterer Verrechnung, sog. „Öko-Konto") sowie der höheren ökologischen Effizienz der Kompensationsmaßnahmen (Berücksichtigung naturräumlicher Zusammenhänge, regionale Vernetzung von Naturräumen). (Zwicker-Schwarm 2006)

→ Eingriffsregelung
→ Baugesetzbuch
→ Regionalpark
→ Flächenmanagement

Regional Landscape Park, Regional Park

This purpose of a regional landscape park (regionaler Landschaftspark) or regional park (Regionalpark) is not only to demarcate and safeguard the terrain from a planning point of view but also to give the public opportunity to experience and understand the landscape, to preserve its ecological diversity, to enhance its aesthetic value, and to give it suitable form for local recreational uses. To achieve these purposes, the landscape needs to be integrated into the urban space, ecology needs to be linked to recreation, and regional cooperation is required in area planning and realisation. A landscape park must be attractive to local residents.

The regional park must therefore satisfy the demands of recreation, nature conservation, and agriculture within an integrated design concept. It is also intended to secure open spaces that have survived between built-up areas in the inner conurbation. The regional park meets a range of needs. It provides the public with new recreational areas and experience spaces, contributes to nature conservation by mitigating the impact of roads and developed areas, and secures agricultural land, offering new farming opportunities. The regional park is embedded in areas used for agricultural purposes, making it possible to experience and rediscover landscape in a supralocal context.

From a regional policy point of view, a regional landscape park is therefore important in three regards: as compensation space for intrusions on the natural landscape (environemtnal impact mitigation)and for measures that are unavoidable for regional land resource policy and flexible planning; as a protected area for ecology and local recreation with the aim of upholding the principle of sustainable land take; and as a natural landscape area worthy of conservation owing not least of all its aesthetic and design quality and status as an element of local historical heritage.

→ land management

→ open space

Regionaler Landschaftspark, Regionalpark*

Ein regionaler Landschaftspark bzw. Regionalpark zielt darauf ab, den Freiraum nicht nur planerisch abzugrenzen und langfristig zu sichern, sondern auch erlebbar und begreifbar zu machen, ihn in seiner ökologischen Vielfalt zu erhalten und ästhetisch aufzuwerten und für Zwecke der Naherholung zu gestalten. Zu nennen sind in diesem Zusammenhang die Einbeziehung der Landschaft in den Stadtraum, die Verknüpfung von Ökologie und Erholung sowie die regionale Kooperation bei der Flächenplanung und Realisierung. Auch will der Landschaftspark den Bewohner unmittelbar ansprechen.

Der Regionalpark verbindet somit die Ansprüche von Erholung, Naturschutz und Landwirtschaft in einem ganzheitlichen Gestaltungskonzept. Sein Ziel ist es auch, die im engeren Verdichtungsraum zwischen den Siedlungen noch vorhandenen Freiflächen zu sichern. Der Regionalpark ist eine Antwort auf unterschiedliche Bedürfnisse: Er schafft für die Bevölkerung neue Erholungs- und Erlebnisräume, dem Naturschutz dient er zum Ausgleich von Defiziten nach Eingriffen durch Straßen oder Baugebiete und der Landwirtschaft sichert er die von ihr benötigten Flächen und bietet neue Chancen der Bewirtschaftung. Der Regionalpark ist eingebettet in landwirtschaftlich genutzte Flächen und ermöglicht das Erleben und Wiederentdecken von Landschaft im überörtlichen Zusammenhang.

Regionalpolitisch bewertet hat ein derartiger regionaler Landschaftspark dreifache Bedeutung: als Kompensations- und Ausgleichsraum für Eingriffe und Maßnahmen, die unvermeidbar sind, um durch regionales Flächenmanagement Planungsflexibilität zu garantieren; als Sicherungsraum für Ökologie und Naherholung, um auf diese Weise das Nachhaltigkeitsprinzip hinsichtlich Flächeninanspruchnahmen zu gewährleisten; und als Landschaftsraum, den es – im Gegensatz zum verstädterten Raum – auch in seiner ästhetisch-gestalterischen Qualität und als historisches Erbe zu bewahren gilt. (ARL 2002)

→ Flächenmanagement

→ Freiraum

Regional Marketing

see urban/city marketing

Regionalmarketing

siehe Stadtmarketing

Regional Plan, Regional Spatial Structure Plan

Regional plans or regional spatial structure – the terminology differs from state to state in Germany – are

Regionalplan, Regionaler Raumordnungsplan(*)

Regionalpläne bzw. Regionale Raumordnungspläne (die Begrifflichkeiten variieren von Bundesland

overall coordination plans for planning regions (subareas within a state). Regional plans are drawn up on the basis of the spatial structure plan for the territory of the given state (→ state development plan). In preparing such plans, the regional planning authorities thus have the task of giving specific form to the spatial planning goals set for the particular region. As in the spatial structure plan for the entire state, the most important purpose of regional plans is to set concrete spatial planning goals.

In written and graphic form, the regional plan outlines the spatial structure and development to be realised in attaining the goals of comprehensive spatial planning. Principles of spatial planning can also be laid down that supplement and concretise the provisions of the Federal Spatial Planning Act in keeping with the guideline of sustainable spatial development for the given planning area.

→ spatial structure plan
→ state development plan
→ regional planning
→ region
→ state
→ goals of spatial planning

Regional Planning

Regional planning is the task of settling the desired future course of spatial structure and development for sections of a state (regions) by drawing up regional plans. Regional planning is thus spatial planning for subdivisions or regions of states. It gives concrete definition in the region to the spatial structure plan drawn up for the state as a whole, and specifies the regional goals of spatial planning. It therefore constitutes the vital link between the state's supra-local perspectives for development and the specific local decisions land use in the context of urban land-use planning.

This mediating function requires a difficult balance between overall governmental responsibility and local self-government. From a legal and substantive point of view, regional planning, being an element of state spatial planning, is a government task. But from an organisational and planning policy perspective, it is a joint task of state government and local self-government.

With the exception of the Saarland and the three city-states, all states in Germany have established autonomous spatial planning – regional planning – for parts of their territory (regions) pursuant to the

zu Bundesland) sind die räumlich-koordinierenden Gesamtpläne für eine Planungsregion (Teilraum eines Bundeslandes). Die Regionalpläne sind aus dem Raumordnungsplan für das Landesgebiet zu entwickeln (→ Landesentwicklungsplan). Die Träger der Regionalplanung haben also in den von ihnen aufzustellenden Regionalplänen die ihnen vorgegebenen Ziele der Raumordnung für ihre Region zu konkretisieren. Der wichtigste Gehalt der Regionalpläne besteht ebenso wie der in dem Raumordnungsplan für das Landesgebiet aus verbindlichen Zielen der Raumordnung.

Im Regionalplan werden textlich und zeichnerisch die Grundzüge der anzustrebenden räumlichen Ordnung und Entwicklung dargestellt, die durch Ziele der Raumordnung festgelegt werden. Darüber hinaus können auch Grundsätze der Raumordnung festgelegt werden, welche die Vorschriften des Raumordnungsgesetzes nach Maßgabe der Leitvorstellung einer nachhaltigen Raumentwicklung für den jeweiligen Planungsraum ergänzen und konkretisieren. (nach ARL 2002)

→ Raumordnungsplan
→ Landesentwicklungsplan
→ Regionalplanung
→ Region
→ Land
→ Ziele der Raumordnung

Regionalplanung(*)

Regionalplanung ist die den regionalen Planungsträgern übertragene Aufgabe, die anzustrebende räumliche Ordnung und Entwicklung von Teilräumen der Länder (Regionen) durch die Aufstellung von Regionalplänen festzulegen. Regionalplanung ist damit die Raumordnung der Teilräume bzw. Regionen der Länder. Die Regionalplanung hat den Raumordnungsplan für das Landesgebiet in Form von Regionalplänen zu konkretisieren und die regionalen Ziele der Raumordnung festzulegen. Sie stellt das wesentliche Verbindungsglied zwischen überörtlichen Entwicklungsvorstellungen des Landes und der konkreten Festlegung der Raumnutzung auf der örtlichen Ebene durch die Bauleitplanung dar.

In dieser Mittlerfunktion hat die Regionalplanung eine schwierige Gratwanderung zwischen gesamtstaatlicher Verantwortung einerseits und der Wahrung der kommunalen Selbstverwaltungsgarantie andererseits auszuführen. In rechtlicher und materieller Hinsicht ist die Regionalplanung als Teil der Landesplanung eine staatliche Aufgabe. Aus organisatorischer und planungspolitischer Sicht dagegen ist die Regionalplanung als eine gemeinschaftliche Aufgabe von Staat und Selbstverwaltung zu werten.

Federal Spatial Planning Act and their own state spatial planning acts.

→ region
→ state
→ regional plan
→ local planning autonomy

Regional Planning Authority

The organisation of regional planning is laid down by state spatial planning acts. There are two organisational models: local and state regional planning.

In states with local regional planning, municipalities and counties organise themselves in joint planning associations, which vary in name, structure and composition from state to state:

- (regional) planning association (Bavaria, Saxony, Mecklenburg-West Pomerania),
- regional association (Baden-Württemberg),
- regional planning community (Brandenburg, Rhineland-Palatinate, Thuringia, Saxony-Anhalt),
- regional council (North Rhine-Westphalia),
- regional assembly (Hessen).

In states with state-level regional planning (Schleswig-Holstein, Saarland), the state spatial planning authorities, although responsible for regional planning, are required to involve local authorities and associations of local authorities in regional planning by means of a formal procedure. In Lower Saxony, the counties and county-free cities are responsible for regional planning authorities. In Hessen and North Rhine-Westphalia, the planning regions coincide with administrative districts (Regierungsbezirke), and planning bodies make use of district administrative agencies. The influence local authorities or the state can exert on regional planning depends on the organisational form.

→ regional planning
→ region
→ state
→ county
→ district, district administration
→ planning association
→ state spatial planning act

Mit Ausnahme des Saarlandes sowie der drei Stadtstaaten haben alle Länder auf der Grundlage des Raumordnungsgesetzes sowie ihres jeweiligen Landesplanungsgesetzes für Teile ihres Territoriums (Regionen) eine eigenständige räumliche Planung – die Regionalplanung – eingerichtet. (nach ARL2003)

→ Region
→ Bundesland
→ Regionalplan
→ Kommunale Planungshoheit

Träger der Regionalplanung

Die Organisation der Regionalplanung wird von den Bundesländern in den Landesplanungsgesetzen geregelt. Dabei bestehen zwei unterschiedliche Organisationsmodelle: die kommunal verfasste und die staatliche Regionalplanung.

In Ländern mit kommunal verfasster Regionalplanung schließen sich die Gemeinden und Kreise zu Körperschaften zusammen, die je nach Land als

- (Regionale) Planungsverbände (Bayern, Sachsen, Mecklenburg-Vorpommern),
- Regionalverbände (Baden-Württemberg),
- Regionale Planungsgemeinschaften (Brandenburg, Rheinland-Pfalz, Thüringen, Sachsen-Anhalt),
- Regionalräte (Nordrhein-Westfalen) oder
- Regionalversammlungen (Hessen)

bezeichnet werden, wobei sich Aufbau und Zusammensetzung dieser Körperschaften im Detail unterscheiden.

In Ländern mit staatlicher Regionalplanung (Schleswig-Holstein, Saarland) sind die Landesplanungsbehörden Träger der Regionalplanung, müssen jedoch die Gemeinden und Gemeindeverbände in einem förmlichen Verfahren an der Regionalplanung beteiligen. In Niedersachsen sind die Landkreise und kreisfreien Städte Träger der Regionalplanung. In Hessen und Nordrhein-Westfalen sind die Planungsregionen mit den Regierungsbezirken deckungsgleich, die Planungskörperschaften bedienen sich der Verwaltungsstellen der Regierungsbezirke.

Die Einflussmöglichkeiten von Gemeinden bzw. des Landes auf die Regionalplanung sind je nach Organisationsform unterschiedlich. (nach Institut Wohnen und Umwelt 2000:210f)

→ Regionalplanung
→ Region
→ Land
→ Landkreis
→ Regierungsbezirk
→ Planungsverband
→ Landesplanungsgesetz

Regional Planning Contract

see spatial planning contract

Regionalplanerischer Vertrag

siehe Raumordnerischer Vertrag

Regional Policy (regional structural and economic policy)

The term "regional policy" draws together all of the various endeavours and measures undertaken for the purpose of alleviating regional imbalances resulting from either natural or economic circumstances and to create a more level playing-field for competition between the regions. Regional policy concentrates principally on regions marked by high levels of underemployment and unemployment, and by outward migration, on so-called "structural weak" regions. Its chief aim is therefore to create jobs, to provide opportunities for retraining and reskilling, and generally to improve living conditions in laggard regions. Particularly important in this context is the joint federal/state programme "Improvement of Regional Economic Structures." The European level also plays an important role: regional and structural policy is the second biggest item in the EU budget.

→ spatial disparities
→ region
→ development programme

Regionalpolitik (Regionale Struktur- bzw. Wirtschaftspolitik)(*)

Unter dem Begriff Regionalpolitik werden alle Bemühungen und Maßnahmen zusammengefasst, die darauf abzielen, die aufgrund natürlicher und wirtschaftlicher Faktoren bestehenden regionalen Ungleichgewichte abzubauen und die Wettbewerbsverhältnisse in den einzelnen Regionen einander anzupassen. Die Regionalpolitik konzentriert sich insbesondere auf Gebiete mit hoher Unterbeschäftigung, Arbeitslosigkeit und Abwanderung, also die so genannten „strukturschwachen" Regionen. Zielsetzung ist dabei vor allem die Schaffung neuer Arbeitsplätze, die Bereitstellung von Umstellungs- und Umschulungsmaßnahmen und die Verbesserung der gesamten Lebensbedingungen in entwicklungsbedürftigen Gebieten. Von besonderer Bedeutung ist in diesem Zusammenhang die von Bund und Ländern getragene „Gemeinschaftsaufgabe zur Verbesserung der regionalen Wirtschaftsstruktur". Auch die europäische Ebene spielt eine bedeutende Rolle: die Regional- und Strukturpolitik ist der zweitgrößte Posten im Haushalt der Europäischen Union. (nach ARL 2003)

→ Disparitäten, räumliche
→ Region
→ Förderprogramme

Regional Preparatory Land-Use Plan, Regional Zoning Plan

see preparatory land-use plan, zoning plan

Regionaler Flächennutzungsplan

siehe Flächennutzungsplan

Regional Structural Policy

see regional policy

Regionale Strukturpolitik

siehe Regionalpolitik

Reserve Area/Site

Reserve areas are areas where special importance is attached to certain functions or uses of importance for spatial structure in comparison with competing uses. In their specific character, reserve areas reflect the principles of spatial planning; but no final appraisal has yet been undertaken of the substantive benefits their designation anticipates.

→ assignment of functions (in spatial planning)
→ principles of spatial planning

Vorbehaltsgebiet*

Vorbehaltsgebiete sind Gebiete, in denen bestimmten raumbedeutsamen Funktionen oder Nutzungen bei der Abwägung mit konkurrierenden raumbedeutsamen Nutzungen besonderes Gewicht beigemessen werden soll. Vorbehaltsgebiete besitzen den Charakter von Grundsätzen der Raumordnung, ihre inhaltlichen Empfehlungen sind damit jedoch noch nicht endgültig abgewogen. (ARL 2003)

→ Funktionszuweisungen in der Raumordnung und Landesplanung
→ Grundsätze der Raumordnung

Right of Associations to Institute Legal Action

This is the right extended to recognised environmental organisation to institute legal action against defined administrative actions. Under administrative law, legal action is normal only possible if the plaintiff can show that administration action violates his personal rights. The purpose of extending the right to institute legal action to associations is to safeguard public objects of legal protection (e.g. clean water, health) where this right cannot otherwise be brought before the courts since it is not possible to identify an individual citizen who is adversely affected. This right entitles environmental organisations to take legal action in defence of their interests. Since 2002 the Federal Nature Conservation Act has also provided such a right. Some states (e.g. Berlin, Bremen, Hamburg and Hesse) have enshrined this right in their own nature conservation acts.

→ nature conservation

Verbandsklagerecht(*)

Das Verbandsklagerecht bedeutet die Möglichkeit für anerkannte Naturschutzverbände, gegen definierte Verwaltungshandlungen (Verwaltungsakte) Klage zu erheben. Nach dem Verwaltungsrecht sind Klagen normalerweise nur zulässig, wenn der Kläger geltend machen kann, dass er durch den Verwaltungsakt individuell in seinen Rechten verletzt wird. Das Verbandsklagerecht dient dem Schutz kollektiver, öffentlicher Rechtsgüter (z. B. sauberes Wasser, Gesundheit), die der Allgemeinheit zustehen, jedoch von ihr juristisch nicht wahrgenommen werden können, weil einzelne nachweislich Betroffene nicht vorhanden sind. Über die Verbandsklagen dürfen die Naturschutzverbände für die von ihnen verfolgten Interessen gerichtlich tätig werden. Seit dem Jahre 2002 enthält auch das Bundesnaturschutzgesetz ein Verbandsklagerecht. Einige Länder, so Berlin, Bremen, Hamburg und Hessen, haben die Verbandsklage schon zuvor in unterschiedlichem Maße in ihre Landesnaturschutzgesetze integriert. (Schmidt-Eichstaedt nach ARL 2002)

→ Naturschutz

Right of Pre-Emption

The right of pre-emption is the “right of first refusal” which a local authority is permitted to exercise in respect of a property within its territory. The Federal Building Code distinguishes between general and specific local-authority rights of pre-emption, both of which apply only to the purchase of real property. In both cases, the exercise of the pre-emption right is permitted only when this is in the public interest. A municipality is permitted to make use of its general pre-emption right in six distinct cases: within the area covered by a binding land-use plan in respect of sites designated for public use; in an area undergoing reallocation; in a formally designated rehabilitation area, and in an urban development zone; within the territory covered by a preservation and redevelopment statute; within areas covered by a preparatory land-use plan, provided the land concerned is not developed, is situated in the outer zone and has been earmarked in the preparatory land-use plan for use as housing land or as a residential area; in respect of sites within the territory covered by a binding land-use plan or in built-up areas which are suitable for predominantly residential development and which have not been developed. Exercise of the specific pre-emption right must be underpinned by a bye-law (or municipal statute); this is accordingly sometimes referred to as a “statutory pre-emption right”. The municipality may assert by statute its right of pre-emption in respect of undeveloped land within the area covered by a bind-

Vorkaufsrecht(*)

Das Vorkaufsrecht bezeichnet das Recht der Gemeinde, in einen wirksamen Kaufvertrag an Stelle des Käufers einzutreten. Im Baugesetzbuch werden zwei Typen gemeindlicher Vorkaufsrechte genannt, das allgemeine und das besondere Vorkaufsrecht. Beide Arten von Vorkaufsrechten erstrecken sich lediglich auf den Kauf von Grundstücken. Allgemeines und besonderes Vorkaufsrecht dürfen nur ausgeübt werden, wenn das Wohl der Allgemeinheit dies rechtfertigt. Das allgemeine Vorkaufsrecht steht der Gemeinde kraft Gesetz in sechs Fällen zu: im Geltungsbereich eines Bebauungsplans bei Flächen, die für öffentliche Zwecke festgesetzt sind, in einem Umlegungsgebiet, in einem förmlich festgelegten Sanierungsgebiet und städtebaulichen Entwicklungsbereich, im Geltungsbereich einer Erhaltungs- und Stadtumbausatzung, im Geltungsbereich eines Flächennutzungsplans bei unbebauten Flächen im Außenbereich, für die eine Nutzung als Wohnbaufläche oder Wohngebiet dargestellt ist und in Gebieten im Geltungsbereich eines Bebauungsplans oder innerhalb im Zusammenhang bebauter Ortsteile, die vorwiegend mit Wohngebäuden bebaut werden können, soweit die Grundstücke unbebaut sind. Das besondere Vorkaufsrecht setzt eine gemeindliche Satzung voraus und wird deshalb auch als Satzungsvorkaufsrecht bezeichnet. Die Gemeinde kann zum einen durch Satzung im Geltungsbereich eines Bebauungsplans ihr Vorkaufsrecht an unbebauten

ing land-use plan; it is also permitted to make use of this right in respect of areas for which urban development measures are being considered, and, in order to safeguard planned urban development, it may designate by statute such sites in respect of which it may wish to exercise its right of pre-emption. Pre-emption rights are also enshrined in nature-protection law.

→ municipality, local authority

→ Federal Building Code

Grundstücken begründen; zum anderen kann sie in Gebieten, in denen sie städtebauliche Maßnahmen in Betracht zieht, zur Sicherung einer geordneten städtebaulichen Entwicklung durch Satzung Flächen bezeichnen, an denen ihr ein Vorkaufsrecht an den Grundstücken zusteht. Vorkaufsrechte sind auch im Naturschutzrecht verankert. (ARL 2003)

→ Gemeinde

→ Baugesetzbuch

Rural Areas

see spatial category

Ländliche Räume

siehe Raumkategorie

Set-Back Line

see permissible lot coverage

Baugrenze

siehe Überbaubare Grundstücksfläche

Socially Integrative City (Programme "Districts With Special Development Needs")

The "Socially Integrative City" is a programme launched by the federal and state governments in 1999 to tackle problems in deprived urban districts or in other areas of the municipal territory with special development needs. The overriding objective is to improve living conditions in districts with high concentrations of social and economic deprivation. Strategic lower-order goals include bundling human and material (investment and non-investment) resources, activating and involving local residents and other local actors, and establishing and testing suitable new management systems and organisational structures. Local initiatives in the fields of employment, cultural and social work are given priority support.

Within the neighbourhood concerned, special emphasis is placed on district or neighbourhood management. New organisational structures are tested, which develop complex, neighbourhood-related programmes and bundle existing resources, which include funding from other programmes, from the EU, from other policy areas, and from private actors. Neighbourhood management contributes to strengthening communicative structures and tests new, "integrated" forms of policy at the local level.

Given the favourable feedback from urban districts, the federal/state programme "Socially Integrative City" is regarded as a promising advance in urban development. In 2004 it was included in Federal Building Code under special urban planning legislation. Local authorities can now designate areas for "Socially Integrative City" support by simple resolution. The basis is provided by an local development

Die Soziale Stadt (Programm „Stadtteile mit besonderem Entwicklungsbedarf")

„Soziale Stadt" ist ein 1999 von Bund und Bundesländern aufgestelltes Programm zur Bewältigung der Probleme in durch soziale Missstände benachteiligten Ortsteilen oder anderen Teilen des Gemeindegebietes mit besonderem Entwicklungsbedarf Übergeordnete Zielsetzung ist die Verbesserung der Lebensbedingungen in Stadtteilen mit hoher Konzentration sozialer und ökonomischer Missstände. Strategische Unterziele sind die Bündelung menschlicher und materieller (investiver und nicht-investiver) Ressourcen, die Aktivierung und Beteiligung der Quartiersbevölkerung und anderer lokaler Akteure sowie die Einrichtung bzw. Erprobung dafür geeigneter neuer Managementsysteme und Organisationsstrukturen. Gefördert werden insbesondere lokale Initiativen in den Bereichen Beschäftigung, Kultur- und Sozialarbeit.

Einen besonderen Stellenwert innerhalb eines betroffenen Quartiers nimmt das Stadtteil- bzw. Quartiersmanagement ein. Hier werden neue Organisationsstrukturen erprobt, die komplexen, quartiersbezogenen Programme entwickelt und die vorhandenen Ressourcen gebündelt, zu denen auch Fördermittel aus anderen Programmen, von der EU, aus anderen Politikbereichen, aber auch von privaten Akteuren gehören. Das Quartiersmanagement fördert die Stärkung kommunikativer Strukturen und erprobt neue „integrierte" Politikformen auf lokaler Ebene.

Das Bund-Länder-Programm „Soziale Stadt" wird nach positiven Rückmeldungen aus den Quartieren als zukunftsweisender Schritt für die Stadtentwicklung angesehen. Es wurde 2004 in das besondere Städtebaurecht des Baugesetzbuches übernommen.

concept prepared by the municipality with the collaboration of the affected parties, public authorities, and other public agencies. The concept must state in writing what goals and measures are to be pursued in the area in question.

→ (urban/municipa) district, neighbourhood

→ urban redevelopment

→ moderation, mediation

Die Kommunen haben nun die Möglichkeit, durch einfachen Beschluss ein Gebiet festzulegen, in dem Maßnahmen der „Sozialen Stadt" durchgeführt werden. Grundlage hierfür ist ein von der Kommune unter Mitwirkung der Betroffenen sowie unter Beteiligung der Behörden und Träger öffentlicher Belange erarbeitetes gebietsbezogenes Entwicklungskonzept, in dem die Ziele und Maßnahmen schriftlich darzustellen sind, die in dem betreffenden Gebiet zur Anwendung kommen sollen. (nach Häußermann 2005:1031ff und Schmidt-Eichstaedt 2005)

→ Stadtteil, Quartier

→ Stadtumbau

→ Moderation und Mediation

Soil Conservation and Federal Soil Protection Act

Soil conservation includes all activities for conserving and protecting soils and soil functions under the general heading of nature conservation and environmental protection. The soil, which has to be regarded as the basis for all life and as an integral component of the natural environment, is threatened by a multitude of factors, e.g. the extraction of raw materials, land take, surface sealing, compaction, erosion and contamination by harmful substances. Special care needs to be taken to give the soil the protection it requires. The Federal Soil Protection Act aims to provide long-term protection for soil functions, and to restore these functions where they have been impaired. The Act includes provides for

- the prevention of harmful changes to the soil,
- the remediation of soil and contaminated sites, and of consequently contaminated water, and
- precautionary measures to avert adverse impacts on soil.

Under the Act, soil polluters and landowners can be required to take preventive measures and remediate contaminated sites. The pertinent provisions determine the parties responsible for remediation, define the powers of the public authorities, and regulate remediation planning.

→ contaminated sites

Bodenschutz und Bundesbodenschutzgesetz(*)

Unter Bodenschutz versteht man alle Maßnahmen, die zum Schutz von Böden und Bodenfunktionen (auch vorsorglich) unter dem Aspekt des Natur- und Umweltschutzes getroffen werden. Der Boden als Grundlage allen Lebens und integrierter Bestandteil der natürlichen Umwelt wird durch eine Vielzahl von Einflüssen, wie z. B. Rohstoffentnahme, Flächenverbrauch und Versiegelung, Bodenverdichtung, Erosion und Schadstoffeintrag gefährdet. Er bedarf deshalb eines besonderen Schutzes und besonderer Vorsorge. Durch das Bundes-Bodenschutzgesetz (BBodSchG) sollen die Funktionen des Bodens nachhaltig gesichert oder wieder hergestellt werden. Hierzu sind

- schädliche Bodenveränderungen abzuwehren,
- der Boden und Altlasten sowie ggf. vorhandene Gewässerverunreinigungen zu sanieren und
- Vorsorge gegen nachteilige Einwirkungen auf den Boden zu treffen.

Mittels des Gesetzes können auch die Verursacher von Bodenbelastungen und Grundstückseigentümer zur Gefahrenabwehr und zur Beseitigung von Altlasten verpflichtet werden. Die Regelungen bestimmen die Sanierungsverantwortlichen, definieren die Befugnisse der Behörden und regeln die Sanierungsplanung. (nach ARL 2003)

→ Altlasten

Spatial (order) Category/Area Type

Spatial categories (spatial order categories, area types) are areas defined in terms of specific criteria in which comparable structures exist and where similar spatial planning goals are pursued.

Spatial categories can be defined in terms of settlement structure, quality, or potential. There is no

Raumkategorie(*)

Raumkategorien (Raumtypen, Gebietstypen, Gebietskategorien, Raumstrukturtypen) sind nach bestimmten Kriterien abgegrenzte Gebiete, in denen vergleichbare Strukturen bestehen und in denen die Raumordnung gleichartige Ziele verfolgt.

binding set of area types. Comprehensive spatial planning and state spatial planning define them for their own purposes. The administrative borders of territorial authorities (municipalities or counties) are generally taken, although more recent models use geographically more precise boundaries. The most important defining criteria are population density, centrality, and location. The numbers and names of categories vary. In settlement structure approaches, for example, the spectrum runs from metropolitan area (agglomeration, conurbation) to rural area (sparsely populated region). Problem-oriented approaches make use of spatial categories like "growth region" (area with good development prospects) or "structurally weak area" (region with adverse economic development).

→ spatial planning

→ agglomeration, conurbation, metropolitan area

→ equivalence of living conditions

Die Raumkategorien können beispielsweise nach siedlungsstrukturellen, nach qualitativen oder nach potentialorientierten Kriterien gebildet werden. Es gibt keinen verbindlichen Kanon der Raumkategorien. Gesetze und Planwerke von Raumordnung und Landesplanung verwenden jeweils eigene Definitionen. Bei der Abgrenzung wird im Allgemeinen auf die Verwaltungsgrenzen von Gebietskörperschaften (Gemeinden oder Kreise) zurückgegriffen, neuere Modelle verwenden aber auch geographisch exaktere Abgrenzungen. Wichtigste Abgrenzungskriterien sind Bevölkerungsdichte, Zentralität und Lage. Die Anzahl und die Bezeichnung der definierten Kategorien sind variabel und bewegen sich etwa bei siedlungsstrukturellen Ansätzen meist zwischen den Polen „Verdichtungsräume" (Agglomerationen) und „Ländliche Räume" (dünn besiedelte Regionen). Problemorientierte Ansätze weisen z.B. Raumkategorien wie „Wachstumsregionen" (Gebiete mit guten Entwicklungsaussichten) oder „Strukturschwache Räume" (Regionen mit negativer wirtschaftlicher Entwicklung) aus. (nach BBR 2005c:15ff,175ff; ARL 2003 und Gruber 1995:357ff)

→ Raumordnung

→ Agglomeration

→ Gleichwertigkeit der Lebensbedingungen

Spatial Development

see spatial planning

Raumentwicklung

siehe Raumordnung

Spatial Monitoring

Spatial monitoring is the indicator-based, on-going, systematic, and comprehensive identification and description of spatial structural developments in such fields as demography, the economy, the labour market, agriculture, tourism, and the environment. As a basis for planning, spatial monitoring is an important and permanent task both at the national level (on-going spatial monitoring by the Federal Office for Building and Regional Planning (BBR) and by most state and regional planning authorities. It provides planning bodies with early information on spatial processes affecting planning and on the effectiveness of measures that are already running. Spatial monitoring addresses spatial policy and planning issues on the basis of regional statistics and area-related data. The results of spatial monitoring are presented in maps and diagrams, and increasingly in the form of digital spatial planning registers.

→ federal planning authorities

Raumbeobachtung(*)

Unter Raumbeobachtung versteht man die indikatorengestützte, laufende, systematische und umfassende Erfassung und Darstellung räumlicher Entwicklungen in Strukturbereichen wie Bevölkerung, Wirtschaft, Arbeitsmarkt, Landwirtschaft, Fremdenverkehr, Umwelt usw. Raumbeobachtung als Grundlage der Planung ist eine wichtige Daueraufgabe sowohl auf Bundesebene (laufende Raumbeobachtung des Bundesamtes für Bauwesen und Raumordnung BBR) als auch in den meisten Landes- und Regionalplanungsbehörden. Sie liefert den Planungsträgern frühzeitige Informationen über planungsrelevante räumliche Prozesse sowie über die Wirksamkeit zuvor begonnener Maßnahmen. Grundlage der Raumbeobachtung sind regionalstatistische und raumbezogene Daten, die mit den sich aus raumbezogener Politik und Planung ergebenden Fragen konfrontiert werden. Die Ergebnisse der Raumbeobachtung werden in Form von Karten und Diagrammen, zunehmend auch mittels digitaler Raumordnungskataster präsentiert. (nach Gatzweiler 2005; ARL 2002)

→ Bundesbehörden für räumliche Planung

Spatial Planning and Spatial Development

"Raumordnung" (translated in the glossary as "spatial planning"), "Raumentwicklung" (spatial development), and "Raumplanung" (also literally spatial planning) are closely related concepts denoting deliberate human intervention in the development of an area (or "space"). The traditional term "Raumordnung" refers to the comprehensive, supra-local and superordinate tier of planning the structure and development of space. The attribute "comprehensive" emphasises the function of co-ordinating and harmonising those elements of the various types of sectoral planning which have spatial impacts. "Supra-local" indicates that the territory affected by this tier of planning extends beyond the boundaries and jurisdictions of local authorities. The "superordinate" character of spatial planning is a reflection of the power of central government to play an all-embracing and co-ordinating role with regard to planning by virtue of its sovereign powers for the entire national territory. As a consequence, all public planning authorities are subject to government authority and are thus bound by state spatial planning.

"Raumentwicklung," translated as "spatial development" has for some time now been used in place of "Raumordnung" (e.g. European Spatial Development Concept). The more strongly formative, dynamic nature of the development concept is intended to underline that more than an "ordering" function is involved.

In general usage, the term "Raumplanung," also translated as spatial planning, refers quite broadly to the various actions taken within a particular territory with the purpose of affecting or influencing the spatial development of the community, of industry and commerce, and of the natural, built and social environment. From the point of view of German planning law and administration, "Raumplanung" is the cover term which embraces three tiers of supra-sectoral planning: federal spatial planning ((Bundes-)Raumordnung); state spatial planning (Landesplanung), which includes regional planning (Regionalplanung); and urban land-use planning (Bauleitplanung). Taken together, these three planning tiers constitute a coherent spatial planning system. The supra-sectoral and co-ordinating remit which is a central aspect of the planning system means that "Raumplanung" has to be seen as legally, organisationally and materially distinct from spatially relevant sectoral planning.

→ federal spatial planning
→ Federal Spatial Planning Act
→ state spatial planning
→ regional planning
→ urban land-use planning

Raumordnung, Raumentwicklung und Raumplanung(*)

Raumordnung, Raumentwicklung und Raumplanung sind inhaltlich verwandte Begriffe, die das bewusste Einwirken des Menschen auf die Entwicklung eines Gebiets (eines „Raums") beschreiben. Der traditionelle Terminus Raumordnung beschreibt die zusammenfassende, überörtliche und übergeordnete Planung zur Ordnung und Entwicklung des Raumes. „Zusammenfassend" kennzeichnet die Koordinierungsaufgabe der Raumordnung, vielfältige Fachplanungen aufeinander abzustimmen. „Überörtlich" bedeutet, dass die Raumordnung räumlich und sachlich über den Wirkungsbereich des einzelnen „Ortes", also der einzelnen Gemeinden, hinausgeht. „Übergeordnet" bezieht sich auf die umfassende Planungshoheit des Staates, die aus seiner Gebietshoheit folgt. Danach sind alle öffentlichen Planungsträger der Staatsgewalt und damit auch der raumordnerischen Planung des betreffenden Landes verpflichtet.

Der Begriff Raumentwicklung wird seit einiger Zeit anstelle des Begriffs Raumordnung verwendet (so z. B. beim Europäischen Raumentwicklungskonzept). Durch den stärker gestaltenden, dynamischen Charakter des Begriffs Entwicklung soll die über Ordnungsaufgaben hinaus reichende Bedeutung verdeutlicht werden.

Unter Raumplanung wird im allgemeinen Sprachgebrauch das gezielte Einwirken auf die räumliche Entwicklung der Gesellschaft, der Wirtschaft und der natürlichen, gebauten und sozialen Umwelt in einem Gebiet verstanden. Aus der Sicht des Planungsrechts und der Planungsadministration ist Raumplanung der Oberbegriff für die drei überfachlichen Planungsebenen der Bundesraumordnung, der Landesplanung einschließlich der Regionalplanung sowie der (kommunalen) Bauleitplanung. Diese drei Planungsebenen bilden in ihrer Gesamtheit ein stringentes Raumplanungssystem. Das System der Raumplanung grenzt sich aufgrund seines überfachlichen Planungs- und Koordinierungsauftrages rechtlich, organisatorisch und auch inhaltlich von den raumwirksamen Fachplanungen ab. (nach ARL 2003 und ARL 2002)

→ Bundesraumordnung
→ Raumordnungsgesetz
→ Landesplanung
→ Regionalplanung
→ Bauleitplanung

Spatial Planning Clause

Spatial planning clauses are specific provisions contained in the Federal Spatial Planning Act and in the Federal Building Code, as well as in sectoral planning legislation, which require all planning schemes and measures with spatial impacts to comply with the requirements of comprehensive spatial planning, or require the involvement of state spatial planning authorities in order that they may enforce the requirements of spatial planning.

→ Federal Spatial Planning Act,
→ Federal Building Code
→ federal and state sectoral planning legislation
→ spatial planning requirements

Raumordnungsklausel(*)

Raumordnungsklauseln sind Rechtsvorschriften im Raumordnungsgesetz, im Baugesetzbuch sowie in den Fachplanungsgesetzen, nach denen bei raumbedeutsamen Planungen und Maßnahmen die Erfordernisse der Raumordnung und Landesplanung zu beachten oder zu berücksichtigen oder die Landesplanungsbehörden zu beteiligen sind, damit diese die Erfordernisse der Raumordnung und Landesplanung geltend machen können. (ARL 2003)

→ Raumordnungsgesetz
→ Baugesetzbuch
→ Fachplanungsgesetze
→ Erfordernisse der Raumordnung

Spatial Planning Law

see planning and building law

Raumordnungsrecht

siehe Planungs- und Baurecht

Spatial Planning Policy Guidelines and Framework for Actio

The Spatial Planning Policy Guidelines and the Framework for Action in Spatial Planning Policy are federal action plans.

The Spatial Planning Policy Guidelines were drawn up in 1993 by the then Federal Ministry for Regional Planning, Building and Urban Development (now the Federal Ministry of Transport, Building and Urban Development) in collaboration with the states in the context of the Conference of Ministers for Spatial Planning. It formulates five guiding principles for spatial development and a strategy for the whole of Germany, include the European frame of reference. The guidelines seek to promote equivalent living conditions throughout the country and integrate the fundamentally altered situation in Europe (completion of the internal market, the opening up of Eastern Europe) in a model for spatial development. Polycentric spatial and settlement structures are to be safeguarded and developed, and natural resources protected.

The Framework of Action in Spatial Planning Policy, which works out the guidelines in detail, was adapted by the Conference of Ministers for Spatial Planning (MKRO) in 1996 as a medium-term working and action programme with 10 specific bundles of measures. The topics it addresses include regional development concepts, city networks, European metropolitan regions, strategies for structurally weak rural areas, and cross-border cooperation. The Spatial Planning Policy Guidelines and Framework for Action in Spatial Planning Policy have made important contributions to spatial development in Germany and Europe.

Raumordnungspolitischer Orientierungs- und Handlungsrahmen(*)

Der Raumordnungspolitische Orientierungsrahmen und der Raumordnungspolitische Handlungsrahmen sind Handlungskonzepte auf Bundesebene.

Der Raumordnungspolitische Orientierungsrahmen wurde 1993 vom damaligen Bundesministerium für Raumordnung, Bauwesen und Städtebau (heute: Bundesministerium für Verkehr, Bau und Stadtentwicklung) unter Mitwirkung der Länder im Rahmen der Ministerkonferenz für Raumordnung erarbeitet. In ihm werden fünf räumliche Leitbilder formuliert und eine Strategie für Gesamtdeutschland unter Einschluss der europäischen Bezüge skizziert. Mit dem Orientierungsrahmen soll die Gleichwertigkeit der Lebensverhältnisse in den Teilräumen des Bundesgebietes gefördert und die grundlegend veränderte Situation Europas (Vollendung des Binnenmarktes/ Öffnung Osteuropas) in ein räumliches Leitbild integriert werden. Die dezentrale Raum- und Siedlungsstruktur soll gesichert und ausgebaut, die natürlichen Lebensgrundlagen geschützt werden.

Der Raumordnungspolitische Handlungsrahmen, der den Orientierungsrahmen konkretisiert, wurde 1996 als mittelfristiges Arbeits- und Aktionsprogramm mit 10 konkreten Maßnahmenbündeln von der Ministerkonferenz für Raumordnung (MKRO) beschlossen. Themen sind u.a. Städtenetze, Europäische Metropolregionen, Strategien für strukturschwache ländliche Räume sowie grenzüberschreitende Zusammenarbeit. Mit dem Raumordnungspolitischen Orientierungs- und Handlungsrahmen sind wesentliche Beiträge für die Raumentwicklung in Deutschland und Europa geleistet worden.

Since the conditions for spatial development change, guidelines and frameworks for action are constantly updated. For instance, in June 2006 the Conference of Ministers for Spatial Planning adapted the "Guiding Principles and Strategies for Spatial Development in Germany", setting new priorities in spatial planning for the coming years.

→ federation, federal government
→ guiding principles for spatial development
→ regional development concept
→ city network
→ European metropolitan region
→ guiding principles for spatial development

Spatial Planning Procedure

Spatial planning procedure is a state procedure for coordinating planning and measures and bringing them into line with the requirements of comprehensive spatial planning. Spatial planning procedures assessed the locational compatibility of a particular plan or measure and determines

- whether spatially relevant plans or measures are in accordance with the requirements of spatial policy,
- in which way spatially relevant plans and measures can be harmonized or carried out in conformity with spatial planning policy (regional impact assessment).

By way of ordinance and with the approval of the Bundesrat, the federal government has stipulated which plans and measures require a spatial planning procedure to be carried out, in so far as they have spatial and supralocal impacts. The ordinance in question is the Spatial Planning Ordinance (RoV) of 18.08.1997

→ spatial planning
→ state spatial planning
→ spatial planning requirements

Spatial Planning Report

see tools for securing and implementing spatial planning

Spatial Planning Requirements

In federal, state and regional planning, spatial planning requirements are laid down in spatial structure plans in the form of texts and drawings. The term covers the goals, principles, and other requirements

Da sich die Rahmenbedingungen für die Raumentwicklung verändern, werden Orientierungs- und Handlungsrahmen fortgeschrieben. So hat im Juni 2006 die Ministerkonferenz für Raumordnung „Leitbilder und Handlungsstrategien für die Raumentwicklung in Deutschland" beschlossen und darin neue Aufgabenschwerpunkte der Raumordnung für die nächsten Jahren festgehalten. (nach ARL 2003)

→ Bund
→ Leitbilder der räumlichen Entwicklung
→ Regionale Entwicklungskonzepte
→ Städtenetze
→ Europäische Metropolregion
→ Leitbilder der räumlichen Entwicklung

Raumordnungsverfahren(*)

Das Raumordnungsverfahren ist ein landesplanerisches Verfahren, in dem raumbedeutsame Planungen und Maßnahmen untereinander und mit den Erfordernissen der Raumordnung abgestimmt werden. Durch das Raumordnungsverfahren wird die Raumverträglichkeit einer Planung oder Maßnahme beurteilt und festgestellt,

- ob raumbedeutsame Planungen und Maßnahmen mit den Erfordernissen der Raumordnung übereinstimmen,
- wie raumbedeutsame Planungen und Maßnahmen unter den Gesichtspunkten der Raumordnung aufeinander abgestimmt oder durchgeführt werden können (Raumverträglichkeitsprüfung).

Die Bundesregierung hat durch Rechtsverordnung mit Zustimmung des Bundesrates die Planungen und Maßnahmen bestimmt, für die ein Raumordnungsverfahren durchgeführt werden soll, wenn sie im Einzelfall raumbedeutsam sind und überörtliche Bedeutung haben. Dieses ist erfolgt durch die Raumordnungsverordnung (RoV) vom 18.08.1997. (nach ARL 2003)

→ Raumordnung
→ Landesplanung
→ Erfordernisse der Raumordnung

Raumordnungsbericht

siehe Sicherungsinstrumente der Raumordnung und Landesplanung

Erfordernisse der Raumordnung(*)

Erfordernisse der Raumordnung werden auf Ebene der Raumordnung des Bundes, der Landes- und Regionalplanung in den jeweiligen Raumordnungsplänen zeichnerisch und/oder durch Text dargestellt.

of spatial planning. The term covers the goals, principles, and other requirements of spatial planning. According to the Federal Spatial Planning Act, "other requirements" are:

- regional planning goals in the process of being established,
- results of formal state spatial planning procedures such spatial planning procedures, and
- state government opinions.

The goals, principles, and other requirements of spatial planning differ in their binding force as laid down by the Federal Spatial Planning Act. The goals of spatial planning must be strictly observed by all actors mentioned by the Federal Spatial Planning Act (especially public authorities and planning bodies) in all spatially relevant planning and activities. This requirement of compliance prevents the circumvention of spatial planning goals in the course of balancing interests or by discretionary decisions. The principles of spatial planning and other spatial planning requirements are to be observed in planning and administrative decisions in weighing up interests or in making discretionary decisions in accordance with the relevant legal provisions.

→ goals of spatial planning

→ principles of spatial planning

→ weighing of interests

→ spatial structure plan

Erfordernisse der Raumordnung ist ein Oberbegriff für Ziele, Grundsätze und sonstige Erfordernisse der Raumordnung. Als sonstige Erfordernisse der Raumordnung gelten gemäß Raumordnungsgesetz:

- in Aufstellung befindliche Ziele der Raumordnung,
- Ergebnisse förmlicher landesplanerischer Verfahren wie des Raumordnungsverfahrens und
- landesplanerische Stellungnahmen.

Ziele, Grundsätze und sonstige Erfordernisse der Raumordnung unterscheiden sich durch die im Raumordnungsgesetz geregelten Bindungswirkungen, d. h. durch ihre Rechtswirkungen. Ziele der Raumordnung entfalten eine strikte Beachtungspflicht gegenüber raumbedeutsamen Planungen und Maßnahmen von allen im Raumordnungsgesetz genannten Stellen (insbesondere öffentliche Stellen bzw. Planungsträger). Die Beachtungspflicht schließt es aus, Ziele der Raumordnung im Wege von Abwägungen oder Ermessensentscheidungen zu überwinden. Grundsätze der Raumordnung und sonstige Erfordernisse der Raumordnung sind bei Planungs- und Verwaltungsentscheidungen in der Abwägung oder bei Ermessensentscheidungen nach Maßgabe der dafür geltenden Vorschriften zu berücksichtigen. (nach ARL 2001b und 2003)

→ Ziele der Raumordnung

→ Grundsätze der Raumordnung

→ Abwägung der Belange

→ Raumordnungsplan

Spatial Structure and Settlement Structure

Spatial structure results from the interplay of the entire range of factors which impact on the conditions which exist within an area, i.e. natural and administrative/political circumstances, places of work and housing, transport infrastructure, and leisure and recreational facilities. Spatial structure thus emerges out of the totality of conditions affecting living and working in the territory; to a great extent, these conditions are interdependent, thus influencing the development or structure of the area. Settlement structure is the quantitative and qualitative pattern of distribution of housing, places of work, and infrastructure within a certain area.

The two terms are often combined to form a dual concept, "spatial and settlement structure."

Raumstruktur und Siedlungsstruktur(*)

Die räumliche Struktur ist das Ergebnis des Zusammenwirkens aller für den Zustand eines Raumes wesentlichen Faktoren, also der natürlichen und administrativen Gegebenheiten, Arbeits- und Wohnstätten, Verkehrserschließung und -bedienung sowie Erholungs- und Freizeitmöglichkeiten. Die Raumstruktur ergibt sich also aus der Gesamtheit der räumlich verankerten Lebens- und Arbeitsverhältnisse, die sich weitgehend gegenseitig bedingen und somit den Aufbau oder das Gefüge des Raumes bestimmen und beeinflussen. Die Siedlungsstruktur ergibt sich aus dem quantitativen und qualitativen Verteilungsmuster von Wohnungen, Arbeitsstätten und Infrastruktur innerhalb eines bestimmten Gebietes.

Der Begriff Raumstruktur wird häufig im Zusammenhang mit dem Begriff Siedlungsstruktur als Begriffspaar „Raum- und Siedlungsstruktur" verwendet. (nach ARL 2003)

Spatial Structure Plan

The spatial structure plan is the key planning instrument in state spatial planning. The term is an umbrella for various plans and types of plan at the federal und state level. It covers both plans covering the entire territory of a state (referred to variously as state development plans, state spatial planning programmes, state development programmes, etc.) and regional plans for defined regions within a state (regional plans or regional spatial structure plans). Under the Federal Spatial Planning Act, states are required to draw up comprehensive, superordinate plans for their territory. States whose territory encompasses the catchment areas of a number of high-order centres are required to prepare regional plans. The states of Berlin, Bremen, and Hamburg are not required to draw up spatial structure plans. In these city-states, a preparatory land-use plan (PLUP) can assume the function of a spatial structure plan. The federal state was also entitled to regulate the German Exclusive Economic Zone (EEZ). Planning targets and principles for the EEZ relate to economic activities and scientific research, safety and efficiency of shipping and protection of the marine environment.

In textual and graphic form spatial structure outline the spatial structures and development in pursuance of spatial planning goals. Principles of spatial planning can also be laid down that supplement and detail the provisions of the Federal Spatial Planning Act in keeping with the guideline of sustainable spatial development for the given planning area.

→ state spatial planning
→ state development plan
→ regional plan
→ preparatory land-use plan
→ guideline of spatial planning

Raumordnungsplan(*)

Die Raumordnungspläne sind die zentralen Planungsinstrumente der Landesplanung. Der Begriff stellt einen Oberbegriff für unterschiedliche Pläne und Plantypen auf der Bundes- und Landesebene dar. Er umfasst zum einen die Pläne für das Landesgebiet, deren Bezeichnung je nach Land unterschiedlich ist (Landesentwicklungsplan, Landesraumordnungsprogramm, Landesentwicklungsprogramm, usw.) und zum anderen die Pläne für die Teilräume der Länder (Regionalpläne oder regionale Raumordnungspläne). Die Länder sind über das Raumordnungsgesetz verpflichtet, für ihr Gebiet übergeordnete und zusammenfassende Raumordnungspläne aufzustellen. Darüber hinaus sind in den Ländern, deren Gebiet die Verflechtungsbereiche mehrer Oberzentren umfasst, Regionalpläne aufzustellen. Die Verpflichtung zur Aufstellung von Raumordnungsplänen besteht nicht für die Länder Berlin, Bremen und Hamburg. In diesen Stadtstaaten kann ein Flächennutzungsplan die Funktion eines Raumordnungsplans übernehmen. Die Möglichkeit der Raumordnung in Zuständigkeit des Bundes wurde auf die deutsche ausschließliche Wirtschaftszone (AWZ) ausgedehnt. Die Ziele und Grundsätze der Planung für die AWZ beziehen sich auf die wirtschaftliche und wissenschaftliche Nutzung, die Sicherheit und Leichtigkeit der Seeschifffahrt und den Schutz der Meeresumwelt.

Raumordnungspläne bestehen aus textlichen und zeichnerischen Darstellungen, in denen die Grundzüge der anzustrebenden räumlichen Ordnung und Entwicklung durch Ziele der Raumordnung festgelegt werden. Darüber hinaus können in den Raumordnungsplänen auch Grundsätze der Raumordnung festgelegt werden, welche die Vorschriften des Raumordnungsgesetzes nach Maßgabe der Leitvorstellung einer nachhaltigen Raumentwicklung für den jeweiligen Planungsraum konkretisieren. (nach ARL 2001c und 2002)

→ Landesplanung
→ Landesentwicklungsplan
→ Regionalplan
→ Flächennutzungsplan
→ Leitvorstellung der Raumordnung

Spatially Planning Contract

A spatial planning contract is a coordination tool for balancing spatial planning requirements between state governments and one or more municipalities or between different municipalities. Spatial planning contracts provide a binding basis for preparing and implementing spatial structure plans and regional development strategies in harmony with local interests. Such contracts do not replace existing spatial

Raumordnerischer Vertrag(*)

Ein raumordnerischer Vertrag ist ein Instrument der Abstimmung und des Interessensausgleichs in Bezug auf raumordnerische Erfordernisse zwischen dem Land und einer oder mehreren Kommunen oder zwischen verschiedenen Gemeinden. Raumordnerische Verträge dienen dazu, im Einklang mit den Interessen der Gemeinden eine verbindliche Grundlage für die Vorbereitung und Verwirklichung von Raum-

planning tools but complement them in specific task areas where cooperation is paramount (cf Article 13 ROG). The entire spectrum of spatial planning can be the subject of spatial planning contracts, but in practice the focus is on implementation aspects. For example, cooperation between municipalities in city networks is regulated by contract. Depending on the type of plan involved, contracts are referred to as state spatial planning contracts (landesplanerische Verträge) or regional planning contracts (regionalplanerische Verträge).

→ urban development contract

→ Federal Spatial Planning Act

→ spatial planning

→ city network

Spatially Relevant Sectoral Planning

Sectoral planning is the systematic preparation and execution of measures within one specific sector of public policy by the competent sectoral authority (federal or state ministry, local sectoral authorities or other bodies governed by public law). Sectoral planning is deemed to be spatially relevant when it directly or indirectly influences the development of spatial structures. Planning in the transport, energy, environmental, waste management, and water management sectors has a major impact on space, and is concerned particularly with public infrastructure projects (including roads, canals, airports, power lines, sewage plants, fortifications). Some sectoral planning also provides for the designation of protected areas to safeguard public interests. Particularly concerned are nature reserves, landscape and water conservation areas, restricted areas for military facilities, and building protection areas in the vicinity of airports and airfields.

A legal basis has been created for each of these types of sectoral planning (e.g. Federal Highways Act, Federal Nature Conservation Act, the Federal Water Act), laying down the tasks and competencies of each authority and regulating planning approval procedure. The relevant legislation contains what are referred to as "spatial planning clauses" included with the purpose of safeguarding the requirements of federal and state spatial planning. The coordination of state and regional planning is indispensable, since sectoral planning generally goes beyond the territory of a single local authority, so that urban development planning can exert only limit influence.

→ federal and state sectoral planning legislation

ordnungsplänen und Regionalen Entwicklungskonzepten zu schaffen. Raumordnerische Verträge ersetzen nicht das vorhandene Instrumentarium der Raumordnung, sondern sie ergänzen es in Bezug auf bestimmte, auf Kooperation gerichtete Aufgabenfelder (vgl. Art. 13 ROG). Das gesamte Spektrum der Raumordnung kann Gegenstand raumordnerischer Verträge sein, in der Praxis steht jedoch die umsetzungsorientierte Seite der Raumordnung im Vordergrund. So wird beispielsweise die Zusammenarbeit von Gemeinden in Städtenetzen über einen raumordnerischen Vertrag geregelt. Je nachdem auf welchen Raumordnungsplan sich ein solcher Vertrag bezieht, spricht man auch von einem „landesplanerischen" oder einem „regionalplanerischen Vertrag". (nach ARL 2002; Spannowsky 2005:860ff)

→ Städtebaulicher Vertrag

→ Raumordnungsgesetz

→ Raumordnung

→ Städtenetz

Fachplanung, raumwirksame(*)

Fachplanung ist die von der jeweils zuständigen Fachdienststelle (Fachministerium des Bundes und der Länder, Gebietskörperschaften und sonstige öffentlich-rechtliche Körperschaften) betriebene systematische Vorbereitung und Durchführung von Maßnahmen, die auf die Entwicklung eines bestimmten Sachbereiches beschränkt sind. Raumwirksam ist eine Fachplanung dann, wenn sie unmittelbar oder mittelbar die Entwicklung der räumlichen Ordnung beeinflusst. Wichtige raumwirksame Fachplanungen beziehen sich auf die Bereiche Verkehr, Energie, Umwelt, Abfall- und Wasserwirtschaft und dienen insbesondere der Realisierung von öffentlichen Infrastrukturprojekten (Straßen, Kanäle, Flugplätze, Energieleitungen, Abwasseranlagen, Verteidigungsanlagen). Darüber hinaus werden in einigen Fachplanungen auch Gebietsfestsetzungen zur Wahrung bestimmter öffentlicher Belange vorgenommen. Dies gilt vor allem für die Festlegung von Natur- und Landschaftsschutzgebieten, von Wasserschutzgebieten, von Schutzbereichen für militärische Anlagen und für Bauschutzbereiche bei Flugplätzen.

Die Fachplanungen beruhen auf entsprechenden Rechtsgrundlagen (z. B. Bundesfernstraßengesetz, Bundesnaturschutzgesetz, Wasserhaushaltsgesetz), in denen die Aufgaben und Zuständigkeiten der jeweiligen Fachbehörden, vor allem aber die förmliche Planfeststellung durch Planfeststellungsverfahren geregelt werden. Ferner wird aufgrund sogenannter Raumordnungsklauseln in den Fachplanungsgesetzen den Erfordernissen der Raumordnung und Landesplanung Geltung verschafft. Eine Abstimmung und Koordinierung durch die Landes- und Regio-

→ nature conservation
→ transport planning
→ planning approval
→ spatial planning clauses
→ spatial planning requirements:
→ protection area

nalplanung ist unerlässlich, da die Fachplanungen in der Regel über den Hoheitsbereich einer Gemeinde hinaus wirken und dadurch nur begrenzt durch die städtebauliche Planung beeinflusst werden können. (nach ARL 2002)

→ Fachplanungsgesetze
→ Naturschutz
→ Verkehrsplanung
→ Planfeststellung
→ Raumordnungsklausel
→ Erfordernisse der Raumordnung
→ Schutzbereich

Specific Right of Pre-Emption

see right of pre-emption

besonderes Vorkaufsrecht

siehe Vorkaufsrecht

State

The Federal Republic of Germany is composed of sixteen states (Länder, singular Land). The states are also commonly referred to as "Bundesländer" ("states of the federation"), although this term has no legal status. They are Baden-Württemberg, Bavaria, Brandenburg, Hesse, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Rhineland Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia, and the three city-states Berlin, Bremen, and Hamburg. The city-states are both cities and states, and are not subdivided into municipalities. Other subdivisions of states, often with administrative autonomy are districts (Regierungsbezirke), counties, associations of municipalities, and municipalities.

In keeping with the federal principle of government, the sixteen states have their own constitutions and territories, independent state authority encompassing legislature, executive, and judiciary.

The states perform the governmental functions assigned to them by the Basic Law and the state constitutions. The focus is less on independent legislation than on administration and on participation in federal legislation, which state governments exercise through the Federal Council (Bundesrat).

In the system of territorial units for statistical purposes (NUTS) developed by Eurostat for use in Europe, the 16 states of Germany are NUTS 1 entities.

→ federation, federal government
→ district, district administration
→ county
→ municipality, local authority

Land, Bundesland(*)

In der Bundesrepublik Deutschland bezeichnet „Land" einen der 16 Gliedstaaten im Bundesstaat als Zentralinstanz. Im allgemeinen Sprachgebrauch wird auch der rechtlich nicht normierte Begriff Bundesland verwendet. Gliedstaaten sind die 13 Flächenländer Baden-Württemberg, Bayern, Brandenburg, Hessen, Mecklenburg-Vorpommern, Niedersachsen, Nordrhein-Westfalen, Rheinland-Pfalz, Saarland, Sachsen, Sachsen-Anhalt, Schleswig-Holstein und Thüringen sowie die drei Stadtstaaten Berlin, Bremen und Hamburg. Die Besonderheit der Stadtstaaten besteht darin, dass sie zugleich Stadt und Land sind und nicht weiter in Gemeinden untergliedert sind. Weitere Verwaltungs-, z. T. Selbstverwaltungseinheiten der Länder sind Regierungsbezirke, Landkreise, Kommunalverbände und Gemeinden.

Dem bundesstaatlichen bzw. föderalistischen Prinzip entsprechend haben die 16 Länder eigene Verfassungen und Staatsgebiete und verfügen darüber hinaus über eine selbständige politische Staatsgewalt mit eigener Gesetzgebung, eigener Regierung und Verwaltung sowie eigener Rechtsprechung.

Die Länder haben die ihnen durch das Grundgesetz und die Landesverfassungen vorgeschriebenen Staatsaufgaben zu erfüllen. Ihr Aufgabenschwerpunkt liegt weniger in eigener Gesetzgebung als im Verwaltungsbereich und bei der Mitwirkung an der Bundesgesetzgebung, die sie über den Bundesrat ausüben.

In der von Eurostat entwickelten, in Europa verwendeten Systematik der Gebietseinheiten für die Statistik (NUTS) entsprechen die 16 Länder der Bundesrepublik Deutschland der Klassifikationsebene NUTS 1. (nach ARL 2003)

→ Bund

→ Regierungsbezirk
→ Landkreis
→ Gemeinde

State Building Regulation

see building regulations, buidling control law

Landesbauordnung

siehe Bauordnungsrecht, Bauaufsichtsrecht

State Development Programme, State Development Plan

State development plans outline the desired spatial and structural development for the territory of the state. The name given such plans varies from state to state. They are termed state development plan (Landesentwicklungsplan), state spatial planning programme (Landesraumordungsprogramm), state development programme (Landesentwicklungsprogramm), etc. Plans for subdivisions of states (regions) are referred to as regional spatial structure plans (regionaler Raumordungsplan) or regional plans (Regionalplan) (→ regional plan).

Procedures for preparing spatial structure plans and their content differ widely from state to state. In 1998, the Federal Spatial Planning Act therefore laid down general rules for state development plans. For instance, they are required to address settlement and open-space structures and infrastructure, and sectoral planning in the fields of the environment, transport, and pollution control.

→ state spatial planning
→ state
→ region
→ regional plan
→ spatial structure plan

Landesentwicklungsprogramm, Landesentwicklungsplan(*)

In den Raumordnungsplänen der Landesplanung wird die angestrebte räumliche und strukturelle Entwicklung für das jeweilige Landesgebiet in den Grundzügen dargestellt. Die Bezeichnung der Pläne variiert von Bundesland zu Bundesland. Sie werden als Landesentwicklungspläne, Landesraumordnungsprogramme, Landesentwicklungsprogramme usw. bezeichnet. Pläne für Teilräume der Länder (Regionen) werden als regionale Raumordnungspläne (auch Regionalpläne) bezeichnet (→ Regionalplan).

Die Aufstellungsverfahren und die inhaltliche Ausgestaltung der Raumordnungspläne weisen in den einzelnen Ländern zum Teil erhebliche Unterschiede auf Daher hat der Bundesgesetzgeber mit dem im Jahre 1998 in Kraft getretenen Raumordnungsgesetz erstmalig allgemeine Vorschriften über die von den Ländern aufzustellenden Raumordnungspläne erlassen. So sollen Raumordnungspläne Festlegungen zur Raumstruktur, insbesondere zu der anzustrebenden Siedlungs-, Freiraum- und Infrastruktur sowie auch zu den raumbedeutsamen Fachplanungen insbesondere des Umwelt-, Verkehrs- und Immissionsschutzrechts enthalten. (nach ARL 2001c)

→ Landesplanung
→ Land
→ Region
→ Regionalplan
→ Raumordnungsplan

State Spatial Planning

The legal framework for state spatial planning is set by the Federal Spatial Planning Act (ROG), with state-specific regulation being provided by state spatial planning acts. State spatial planning is carried out by the administrative authorities in the states. Its task is to prepare comprehensive, superordinate spatial structure plans in conformity with the principles of spatial planning and to coordinate the relevant planning and measures. State spatial planning thus involves both planning functions proper as well as coordination and safeguards. Legal instruments are

Landesplanung(*)

Die Raumordnung in den Ländern ist die Landesplanung. Die rechtlichen Grundlagen der Landesplanung sind rahmensetzend im Bundesraumordnungsgesetz (ROG) und in länderspezifischer Konkretisierung in den Landesplanungsgesetzen festgelegt. Die Landesplanung wird durch die öffentliche Verwaltung in den Ländern ausgeübt. Aufgabe ist die Erstellung zusammenfassender, übergeordneter, den Grundsätzen der Raumordnung entsprechender Raumordnungspläne und die Koordination raumbedeutsamer Planungen und Maßnahmen. Der Landesplanung

available for both fields.

→ Federal Spatial Planning Act

→ state spatial planning act

→ spatial structure plan

sind also einerseits Planungsfunktionen, andererseits auch Koordinierungs- bzw. Sicherungsfunktionen zugeordnet. Beide Funktionsbereiche sind mit einem rechtlich normierten Instrumentarium ausgestattet. (nach ARL 2002)

→ Raumordnungsgesetz

→ Landesplanungsgesetz

→ Raumordnungsplan

State Spatial Planning Act

State spatial planning acts govern spatial planning within their own territories on the basis of the Federal Spatial Planning Act. All states – except the city-states of Berlin, Bremen and Hamburg – have enacted state spatial planning acts, however they differ in many aspects. Some states restrict the scope of legislation to organisational matters and instruments; others go beyond this minimum content to include substantive provisions in the form of spatial planning principles.

→ Federal Spatial Planning Act

→ state

→ principles of spatial planning

Landesplanungsgesetz*

Landesplanungsgesetze regeln auf der Grundlage des Raumordnungsgesetzes des Bundes die Raumordnung und Landesplanung in den Ländern. Alle Länder – mit Ausnahme der Stadtstaaten Berlin, Bremen und Hamburg – verfügen über Landesplanungsgesetze. Der Aufbau der Landesplanungsgesetze ist in den Ländern nicht einheitlich geregelt. Einige Länder beschränken ihre Landesplanungsgesetze auf Regelungen zur Organisation und zu den Instrumenten, andere Länder erweitern diese Mindestinhalte um materielle Festlegungen in Form von Grundsätzen der Raumordnung. (ARL 2003)

→ Raumordnungsgesetz

→ Land, Bundesland

→ Grundsätze der Raumordnung

State Spatial Planning Advisory Board/ Council

State spatial planning councils or advisory boards (the terminology varies from state to state) participate in drawing up spatial structure plans and support state spatial planning by preparing expert reports and submitting proposals and recommendations. They report to the highest planning authority in the state, and tend to comprise representatives of associations of local authorities and of business, community, and cultural organisations. In some states they may also include representatives of political parties.

→ state

→ state spatial planning

→ state spatial planning authority

→ spatial structure plan

→ association of local authorities

Landesplanungsbeirat, Landesplanungsrat*

Die Landesplanungsbeiräte/Landesplanungsräte (unterschiedliche Begrifflichkeit in den einzelnen Ländern) wirken bei der Aufstellung von Raumordnungsplänen mit und unterstützen die Landesplanung durch Gutachten, Anregungen und Empfehlungen. Sie sind den obersten Landesplanungsbehörden zugeordnet. Mitglieder der Landesplanungsbeiräte/ Landesplanungsräte sind insbesondere Vertreter der kommunalen Spitzenverbände und Vertreter von Organisationen des wirtschaftlichen, sozialen und kulturellen Lebens, in einzelnen Ländern auch Vertreter der politischen Parteien. (ARL 2003)

→ Land

→ Landesplanung

→ Landesplanungsbehörde

→ Raumordnungsplan

→ Kommunale Spitzenverbände

State Spatial Planning Authorities

State spatial planning authorities are charged with the implementaion of spatial planning law. In all

Landesplanungsbehörde*

Landesplanungsbehörden sind die staatlichen Behörden in Deutschland, denen der Vollzug des Raum-

states the highest state spatial planning authority is the relevant ministry. The highest state spatial planning authorities of the states together with the federal ministry responsible for spatial planning constitute the standing Conference of Ministers for Spatial Planning (MKRO). The state spatial planning authorities prepare spatial structure plans for the state territory (termed either state development plan or programme). State spatial planning is governed by state spatial planning acts.

In addition to the highest state spatial planning authorities at government level in the states, there are regional and county planning authorities. In some states there are is a two-tier structure. Subordinate state spatial planning authorities have consultative and supervisory functions, as well as being required to inform and notify superior authorities. State spatial planning authorities also coordinate the work of various planning bodies, for example, in spatial planning procedures.

→ state
→ state spatial planning
→ State Spatial Planning Act
→ spatial structure plan
→ state spatial planning advisory board, state spatial planning council

ordnungsrechts auf Landesebene obliegt. Die oberste Landesplanungsbehörde ist in allen Bundesländern das für Raumordnung zuständige Ministerium. Die obersten Landesplanungsbehörden aller Länder sind zusammen mit dem für die Raumordnung zuständigen Bundesminister in der Ministerkonferenz für Raumordnung (MKRO) zusammengeschlossen. Diese Landesplanungsbehörden sind Träger der Landesplanung und damit für die Erstellung der Raumordnungspläne für das Landesgebiet (je nach Land z. B. als Landesentwicklungspläne oder Landesentwicklungsprogramm bezeichnet) zuständig. Die Landesplanung der Länder ist in den Landesplanungsgesetzen geregelt.

Neben der auf Ebene der Landesregierung angesiedelten obersten Landesplanungsbehörde bestehen die oberen bzw. höheren Landesplanungsbehörden auf der Regionalebene und die unteren Landesplanungsbehörden auf der Kreisebene, wobei es in Bundesländern mit zweistufigem Verwaltungsaufbau nur oberste und untere Landesplanungsbehörden gibt. Die nachgeordneten Landesplanungsbehörden nehmen einerseits Beratungs- und Überwachungsfunktionen wahr und haben andererseits Mitteilungs- und Unterrichtspflichten gegenüber ihren vorgesetzten Stellen. Den Landesplanungsbehörden obliegen darüber hinaus Aufgaben der Koordinierung verschiedener Planungsträger, so u. a. die Durchführung der Raumordnungsverfahren. (nach ARL 2003)

→ Land, Bundesland
→ Landesplanung
→ Landesplanungsgesetz
→ Raumordnungsplan
→ Landesplanungsbeirat

State Spatial Planning Contract

see spatial planning contract

Landesplanerischer Vertrag

siehe Raumordnerischer Vertrag

State Spatial Planning Programme

see state development programme, state development plan

Landesraumordnungsprogramm

siehe Landesentwicklungsprogramm, -plan

Statutory Ordinance

see ordinance

Rechtsverordnung

siehe Verordnung

Statutory Right of Pre-Emption

see right of pre-emption

Satzungsvorkaufsrecht

siehe Vorkaufsrecht

Strategic Environmental Assessment SEA, Plan and Programme Environmental Impact Assessment

Directive 2001/42/EC of the European Parliament and the Council of June 27th 2001 on the assessment of the effects of certain plans and programmes on the environment defines environmental assessment as the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of the consultations in decision-making and the provision of information on the decision in accordance with relevant provisions of the Directive. The Directive was to be transposed into national law by member states by July 20th 2004. In Germany, it was transposed by the EAG Bau (European Law Adaptation Act for the Construction Sector) for urban land-use planning and spatial planning and by the SUPG (Act on the Introduction of Strategic Environmental Assessment and Implementation of Directive 2001/42/EG) for other categories of planning. The key elements in environmental assessment are the identification, description, and evaluation of the considerable environmental impacts that ensue from the implementation of planning. They include effects on biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape, and on interaction between the factors mentioned. An environmental report is required to provide more detailed information on environmental impacts. The pertinent public authorities are to be consulted on the extent and depth of environmental assessment. Furthermore, public authorities and the public at large are to be given the opportunity to state their views on the draft plan and on the accompanying environmental report. Both the environmental report and comments are to be taken into account in preparing and adopting the plan. Over and above this, environmental assessment has no binding effect. In Germany, environmental assessment is required for all spatial structure plans, and for preparatory and binding land-use plans.

→ environmental impact assessment, EIA

→ spatial structure plan

→ preparatory land-use plan

→ binding land-use plan

Strategische Umweltprüfung SUP, Plan- und Programm-Umweltverträglichkeitsprüfung

Nach der Richtlinie 2001/42/EG des Europäischen Parlaments und des Rates vom 27. Juni 2001 über die Prüfung der Umweltauswirkungen bestimmter Pläne und Programme ist unter dem Begriff „Umweltprüfung“ die Ausarbeitung eines Umweltberichts, die Durchführung von Konsultationen, die Berücksichtigungen des Umweltberichts und der Ergebnisse der Konsultationen bei der Entscheidungsfindung und die Unterrichtung über die Entscheidung gemäß den näheren Bestimmungen der Richtlinie zu verstehen. Diese Richtlinie war von den Mitgliedsstaaten bis zum 20. Juli 2004 umzusetzen. In Deutschland erfolgte die Umsetzung durch das EAG Bau (Europarechtsanpassungsgesetz Bau) für den Bereich der Bauleitplanung und der Raumordung sowie durch das SUPG (Gesetz zur Einführung einer strategischen Umweltprüfung und zur Umsetzung der Richtlinie 2001/42/EG) für die verbleibenden Planungen. Kernelement der Umweltprüfung ist die Ermittlung, Beschreibung und Bewertung der erheblichen Umweltauswirkungen der Verwirklichung des jeweiligen Plans. Eingeschlossen sind damit auch Auswirkungen auf Aspekte wie die biologische Vielfalt, die Bevölkerung, die Gesundheit des Menschen, Fauna, Flora, Boden, Wasser, Luft, klimatische Faktoren, Sachwerte, das kulturelle Erbe einschließlich der architektonisch wertvollen Bauten und der archäologischen Schätze, die Landschaft und die Wechselbeziehung zwischen den genannten Faktoren. Zur näheren Erläuterung sind neben der Bezeichnung der Umweltauswirkungen weitere Angaben in einem Umweltbericht zu treffen. Zum Umfang und Detaillierungsgrad der Umweltprüfung sind die relevanten Behörden zu konsultieren. Zudem ist den Behörden und der Öffentlichkeit Gelegenheit zu geben, zum Entwurf des Plans sowie zum begleitenden Umweltbericht Stellung zu nehmen. Der Umweltbericht sowie die dazu abgegebenen Stellungnahmen sind bei der Ausarbeitung und Entscheidung über den Plan zu berücksichtigen. Eine weitergehende Bindung löst die Umweltprüfung nicht aus. Eine Umweltprüfung ist in Deutschland für sämtliche Raumordnungspläne, für die Flächennutzungspläne sowie für die verbindlichen Bebauungspläne vorgeschrieben.

→ Umweltverträglichkeitsprüfung, Projekt-UVP

→ Raumordnungsplan

→ Flächennutzungsplan

→ Bebauungsplan

Strategic Planning

Many cities face planning tasks of unaccustomed dimensions owing to economic and societal structural change. These new challenges have affected not only concepts but also methods in urban planning. The planning hierarchy of classical urban land-use planning has given way to informal and strategic approaches.

The classical tools are no longer expected to perform a general lead function in restructuring. In many places it has been superseded by "strategic planning," under which objectives are progressively implemented through sets of measures at various levels of planning and over various time horizons. The scope of strategic plans varies and they combine planning steps on several levels.

The present concentration of urban development processes on strategically important projects results from the experience that comprehensive, hierarchical planning in successive, chronological steps cannot do justice to current requirements and conditions. From a strategic point of view, simultaneity and interaction between concept and project development are important. This means that guiding concepts and projects are interdependent, can be both consequence and cause. Especially when public finances are tight, it has proved necessary to set clear temporal and spatial priorities for the implementation of planning concepts.

→ comprehensive Planning

→ urban development planning

→ urban land-use planning

Strategische Planung

Viele Städte sind durch den ökonomischen und gesellschaftlichen Strukturwandel mit Planungsaufgaben ungewohnter Dimensionen konfrontiert. Die neuen stadtentwicklungsplanerischen Herausforderungen haben nicht nur die Konzepte, sondern auch die Methoden städtebaulicher Planung verändert. Die hierarchischen Planungsebenen der klassischen Bauleitplanung haben zugunsten informeller und strategischer Ansätze an Bedeutung verloren.

Dem klassischen Instrumentarium wird nicht mehr die übergreifende Leitfunktion bei den aktuellen Umstrukturierungsaufgaben abverlangt. An seine Stelle ist vielerorts die „strategische Planung" getreten, bei der Planungsziele in Maßnahmebündel und Realisierungsschritte umgesetzt werden, die auf unterschiedlichen Planungsebenen angesiedelt sein und die verschiedene Zeithorizonte umfassen können. In strategischen Plänen sind Aussagen unterschiedlicher Reichweite enthalten und Planungsschritte mehrerer Ebenen kombiniert.

Die heutige Konzentration bei Stadtentwicklungsprozessen auf strategisch wichtige Projekte resultiert aus den Erfahrungen, dass Planung mit flächendeckendem Anspruch und hierarchischem Aufbau sowie in aufeinanderfolgenden chronologischen Schritten des aktuellen Handlungserfordernissen und Rahmenbedingungen nicht gerecht werden kann. Strategisch stehen Gleichzeitigkeit und Wechselwirkung von Konzept- und Projektentwicklung im Vordergrund; das heißt, Leitkonzepte und Projekte bedingen sich wechselseitig, sind jeweils Folge oder Vorlauf Gerade unter Bedingungen knapper werdender öffentlicher Mittel erweist es sich als notwendig, klare zeitliche und räumliche Prioritäten für die Realisierung der Planungskonzepte zu setzen.

→ Umfassende Planung

→ Stadtentwicklungsplanung

→ Bauleitplanung

Structurally Weak Areas

see spatial category

strukturschwache Räume

siehe Raumkategorie

Suburbanisation, Urban Sprawl

Suburbanisation is the process by which a population and jobs shift from the core city of an urban region to outlying areas. Suburbanisation has taken place in the major cities of the Western world in several waves since the 19th century. It is closely associated with shifts in transport modes from public transport to private motorisation and with socio-spatial segregation processes. Owing to less dense land use in

Suburbanisierung, Zersiedlung

Der Begriff Suburbanisierung beschreibt den Prozess der Verlagerung von Bevölkerung und Arbeitsplätzen aus der Kernstadt einer Stadtregion in ihr suburbanes Umland. In den Großstädten der westlichen Welt erfolgte die Suburbanisierung seit dem späten 19. Jahrhundert in mehreren Wellen. Suburbanisierung steht in engem Zusammenhang mit Veränderungen in der Verkehrsmittelwahl vom ÖP-

suburban residential, commercial, and industrial locations, suburbanisation exacerbates land consumption, urban sprawl, and the proliferation of private motorised transport. Whereas during the suburbanisation wave from about 1960 in western Germany the exodus of the urban population preceded the departure of commerce and industry from the core city, "catch-up" suburbanisation in East Germany from 1990 onwards was led by large-scale retail establishments before residential outmigration occurred. In recent decades, suburbanisation, especially as far as housing is concerned, has tended to shift to rural areas increasingly distant from cities. This process is termed "exurbanisation" or "peri-urbanisation."

→ agglomeration, conurbation, metropolitan area

Suitable Area for Development

The designation of certain sites outside the areas covered by a binding land-use plans as areas suitable for development is a means of exerting control over spatially relevant development measures (spatially relevant projects, plans and measures) in what in planning law is termed the outer zone by declaring certain areas within a region as suitable areas for certain types of development. The implication of such a designation is that such measures will in general not be permitted outside these areas. This is the case for privileged undertakings in the outer zone, e.g. the planning and construction of wind farms.

The designation of certain areas as suitable areas for development invokes the legally binding force of spatial planning goals.

In this, suitable development areas differ from priority and reserve areas, where a certain use is granted privileged status over others without being prohibited outside the designated area. For details → priority area.

→ Federal Spatial Planning Act

→ outer zone, undesignated outlying area

→ goals of spatial planning

→ priority area

→ reserve area

→ assignment of functions (in spatial planning)

NV hin zum Automobil sowie mit sozialräumlichen Segregationsprozessen (soziale Entmischung der Bevölkerung). Durch die geringere Nutzungsdichte suburbaner Wohn- und Gewerbestandorte sind Flächenverbrauch, Zersiedelung und Zunahme des Automobilverkehrs Folgen der Suburbanisierung. Während bei der Suburbanisierungswelle im westlichen Deutschland ab etwa 1960 die „Stadtflucht" der Bewohner der des Gewerbes vorausging, verlief die „nachholende Suburbanisierung" in den östlichen Bundesländern ab 1990 umgekehrt, hier waren großflächige Einzelhandelseinrichtungen die Pioniere der Suburbanisierung, bevor die Wohnfunktion nachzog. In den letzten Jahrzehnten verlagern sich Suburbanisierungstendenzen vor allem hinsichtlich der Wohnfunktion in immer stadtfernere ländliche Räume, diesen Prozess bezeichnet man als Exurbanisierung oder Periurbanisierung. (nach Heineberg 2001:40ff,52ff)

→ Agglomeration

Eignungsgebiet*

Durch die Festlegung von Eignungsgebieten sollen gemäß Raumordnungsgesetz raumbedeutsame Maßnahmen im bauplanungsrechtlichen Außenbereich dadurch gesteuert werden, dass bestimmte Gebiete in einer Region für diese Maßnahmen als geeignet erklärt werden mit der Folge, dass diese Maßnahmen außerhalb dieser Gebiete regelmäßig ausgeschlossen sein sollen. Dies gilt für privilegierte Vorhaben im Außenbereich, z. B. für die Planung und Errichtung von Windkraftanlagen.

Die Festlegung von Eignungsgebieten entfaltet die Bindungswirkung von Zielen der Raumordnung.

Damit unterscheiden sich die Eignungsgebiete vom Instrument der Vorrang- und Vorbehaltsgebiete, die eine bestimmte Nutzung in einem Gebiet gegenüber anderen privilegiert, aber keine Ausschlusswirkung außerhalb dieses Areals nach sich zieht. Näheres siehe Vorranggebiet. (ARL 2002)

→ Raumordnungsgesetz

→ Außenbereich

→ Ziele der Raumordnung

→ Vorbehaltsgebiet

→ Vorranggebiet

→ Funktionszuweisungen in der Raumordnung und Landesplanung

Sustainability, Sustainable Spatial Development

In conceptual terms, the principle of (ecological) sustainability in both the Federal Nature Conservation Act and the Federal Forestry Act means that natural resources should be used and managed only in a manner which leaves the capacity of ecosystems undepleted for future generations. Since the 1992 environmental summit in Rio de Janeiro, the principle has often been linked with the concept of "development." The expansion of the sustainability concept to one of "sustainable development" is directed in more general terms towards balanced development (taking equal account of economic, social, and environmental aspects) and towards long-term development in all areas of life (thus conserving resources). The Federal Spatial Planning Act sees sustainable spatial development as the key guideline and substantive vision for spatial planning in Germany. The social and economic demands made on an area and its ecological functions are to be harmonised so as to establish sustainable, comprehensive order throughout the area in question.

→ guideline of spatial planning
→ Federal Spatial Planning Act
→ nature conservation

Nachhaltigkeit, nachhaltige Raumentwicklung*

Das sowohl im Bundesnaturschutzgesetz als auch im Bundeswaldgesetz verankerte Prinzip der (ökologischen) Nachhaltigkeit bedeutet konzeptionell, dass natürliche Ressourcen nur in dem Maße in Anspruch genommen werden dürfen und nur so zu bewirtschaften sind, dass ihre langfristige Erhaltung und Nutzbarkeit auch für künftige Generationen gewährleistet ist. Seit dem Umweltgipfel von Rio de Janeiro (1992) wird das Prinzip oft mit dem Begriff „Entwicklung" verknüpft. Die Erweiterung des Begriffes der Nachhaltigkeit auf die „nachhaltige Entwicklung" zielt allgemeiner auf eine ausgewogene (also wirtschaftliche, soziale und Umweltbelange gleichermaßen berücksichtigende) und langfristig tragfähige (also ressourcenschonende) Entwicklung aller Lebensbereiche. Nachhaltige Raumentwicklung ist gemäß Raumordnungsgesetz die zentrale Leitvorstellung und das inhaltsbestimmende Prinzip der Raumordnung in Deutschland. Dabei sind die sozialen und wirtschaftlichen Ansprüche an den Raum mit seinen ökologischen Funktionen in Einklang zu bringen und zu einer dauerhaften, großräumig ausgewogenen Ordnung zu führen. (nach ARL 2002 und 2003)

→ Leitvorstellungen der Raumentwicklung
→ Raumordnungsgesetz
→ Naturschutz

Territorial Authority

A territorial authority (or "territorial corporation") is an area-based legal person governed by public law whose territory consists of a spatially demarcated part of the national territory. It is assigned certain sovereign functions and sovereign authority over persons present in its territory. Territorial authorities have the right of self-organisation and self-government. The most important territorial authorities in Germany are the federation, the states, counties, and municipalities.

→ federation, federal government
→ state
→ county
→ municipality, local authority

Gebietskörperschaft(*)

Eine Gebietskörperschaft ist eine gebietsbezogene juristische Person des öffentlichen Rechts, deren Hoheitsbereich durch einen räumlich abgegrenzten Teil des Staatsgebietes bestimmt wird. Ihr sind bestimmte hoheitliche Aufgaben und hoheitliche Gewalt über Personen zugewiesen, die sich in ihrem Gebiet aufhalten. Gebietskörperschaften zeichnen sich aus durch Selbstorganisation und Selbstverwaltung aus. Die wichtigsten Gebietskörperschaften in Deutschland sind Bund, Länder, Landkreise und Gemeinden. (nach ARL 2003)

→ Bund
→ Bundesländer
→ Landkreise
→ Gemeinde

Tools for Securing and Implementing Spatial Planning

To ensure the satisfactory performance of its functions, state spatial planning has a range of tools at

Sicherungsinstrumente der Raumordnung und Landesplanung(*)

Um ihrer raumordnerischen Aufgabe gerecht werden zu können, stehen der Raumordnung und Landespla-

its disposal over and above programmes and plans which it needs to secure, coordinate and enforce the requirements of state spatial planning. State spatial planning instruments (programmes and plans) are supplemented by a number of further instruments. They can be divided into three groups.

1. Administrative state spatial planning instruments are the compliance and adaptation requirement laid down in the Federal Spatial Planning Act, the Federal Building Code, and in state spatial planning acts. They include:
- The prohibition of plans and measures conflicting with the goals of spatial planning (Section 12 of the Federal Spatial Planning Act and state spatial planning acts; the prohibition may be for a limited or unlimited period).
- Adaptation and planning orders for urban land-use planning (obligation to adapt urban land-use plans to the goals of spatial planning, Section 1 (4) of the Federal Building Code and state spatial planning acts)
- Derogation procedures (Section 11 of the Federal Spatial Planning Act, allowing deviation from the goals of spatial planning in individual cases)

2. State spatial planning coordination tools have the task of coordinating the numerous supralocal projects of the various public and private planning agencies that affect spatial structures:

Spatial planning procedure (see under this heading)
- Simplified state spatial planning coordination procedures (differing from state to state)
- State spatial planning report.

3. Obligation to provide information and reporting ("spatial planning through information")
- Notification and information duties (between federal and state governments and within states)

Spatial monitoring and spatial planning register (see spatial monitoring)
- Spatial planning report / state development reports (reports on the status of spatial planning, goal attainment, spatial development trends and major planning projects)

In addition to these formal instruments for realising spatial planning there are informal tools such as regional development concepts/strategies, city networks, and contractual agreements for the preparation and realisation of spatial structure plans.

→ State Spatial Planning Act

→ goals of spatial planning

→ spatial planning procedure

→ spatial monitoring

→ regional development strategy/concept

→ city network

nung neben dem Instrumentarium der Programm- und Planaufstellung weitere Mittel zur Verfügung, die der Sicherung, Koordination und Durchsetzung der landesplanerischen Erfordernisse dienen. Die Instrumente der landesplanerischen Gestaltung (Programme und Pläne) werden deshalb durch eine Reihe von sichernden bzw. die Planung koordinierenden und realisierenden Instrumenten ergänzt. Diese lassen sich in drei Gruppen unterteilen.

1. Landesplanerische Instrumente mit Verwaltungscharakter sind die im Raumordnungsgesetz, im Baugesetzbuch oder in den Landesplanungsgesetzen normierten Beachtens- und Anpassungspflichten. Hierunter fallen:
- Untersagung raumordnungswidriger Planungen und Maßnahmen zur Sicherung von Zielen der Raumordnung (§ 12 ROG und Landesplanungsgesetze, Untersagung kann befristet und unbefristet erfolgen)
- Anpassungs- und Planungsgebote für die Bauleitplanung (Verpflichtung, die Bauleitpläne den Zielen der Raumordnung anzupassen, § 1 (4) BauGB und Landesplanungsgesetze)
- Zielabweichungsverfahren (§ 11 ROG, ermöglicht im Einzelfall Abweichungen von Zielen der Raumordnung)

2. Landesplanerische Abstimmungsinstrumente erfüllen die Aufgabe, die zahlreichen überörtlich raumbedeutsamen Einzelvorhaben der verschiedenen öffentlichen und privaten Planungsträger aufeinander abzustimmen:

Raumordnungsverfahren (siehe dort)
- Vereinfachte landesplanerische Abstimmungsverfahren (je nach Landesplanungsgesetz unterschiedlich geregelt)
- Landesplanerische Stellungnahme

3. Informationspflichten und Berichtswesen („Raumordnung durch Information")
- Mitteilungs- und Auskunftspflichten (zwischen Bund und Ländern als auch innerhalb der Länder)

Raumbeobachtung und Raumordnungskataster (siehe Raumbeobachtung)
- Raumordnungsbericht/ Landesentwicklungsberichte (Berichte über den Stand der Raumordnung, das Erreichen ihrer Ziele, räumliche Entwicklungstendenzen und bedeutsame Planungsvorhaben)

Neben diesen formellen Instrumenten zur Verwirklichung der Raumordnung, kommen auch informelle Instrumente zum Einsatz, z.B. Regionale Entwicklungskonzepte, Städtenetze und vertragliche Vereinbarungen zur Vorbereitung und Verwirklichung der Raumordnungspläne. (nach ARL 2003 und Höhnberg 2005)

→ Landesplanungsgesetz

→ Ziele der Raumordnung

→ Raumordnungsverfahren
→ Raumbeobachtung
→ Regionale Entwicklungskonzepte
→ Städtenetze

Transport Planning

Transport planning is a sectoral field of planning concerned with the causes of traffic, traffic and transport itself, and its effects. Transport is not an end in itself but a "subservient function." The aims of transport planning is therefore to ensure that all regions are accessible thus enabling the entire population is enabled to participate in economic, societal, and cultural processes, and to avoid any traffic-related impairment of environment and the quality of life. Statutory objectives include the promotion of environmentally friendly modes of transport (public transport, cycling, pedestrian). Among the current challenges facing transport planning are continuing suburbanisation, separation of functions, and diminishing use density.

Transport planning needs to integrated into overall spatial planning and coordinated with other sectoral planning. It takes place on all levels of planning, from the EU to the urban district level. In order to assess transport requirements and planning alternations, transport planners need comprehensive data. Transport planning is the area of sectoral planning that attracts the greatest attention among the general public and politicians.

Coordinated, medium to long-term federal transport planning is laid down every 5 to 10 years in the Federal Transport Infrastructure Plan (FTIP). At the state level, public transport plans provide the basis for developing public transport.

Municipalities, regions, and states may draw up general transport plans (Generalverkehrsplan or Gesamtverkehrsplan) providing a strategy for dealing with all transport and traffic in the planning area. At the city-wide level, transport development planning adopts a similarly comprehensive approach, albeit with greater regard for the social and environmental compatibility of urban transport and traffic.

The transport planning instruments used differ from project to project depending on their scale. They include the planning approval procedure and the urban land-use plan.

→ spatially relevant sectoral planning
→ suburbanisation
→ planning approval

Verkehrsplanung(*)

Verkehrsplanung befasst sich als Fachplanung mit den Ursachen von Verkehr, dem Verkehr selbst sowie seinen Auswirkungen. Verkehr ist kein Selbstzweck, sondern eine „dienende Funktion". Ziele der Verkehrsplanung sind deshalb die Gewährleistung von Erreichbarkeit aller Regionen und der damit verbundenen Teilnahmechancen aller Bürger an wirtschaftlichen, gesellschaftlichen und kulturellen Prozessen sowie die Vermeidung verkehrsbedingter Beeinträchtigungen von Lebensqualität und Umwelt. Hierbei zählt die Förderung schonender Verkehrsarten (ÖPNV, Rad, Fuß) zu den auch gesetzlich festgelegten Arbeitsgrundlagen. Aktuelle Herausforderungen für die Verkehrsplanung sind die anhaltenden Tendenzen von Suburbanisierung, Funktionstrennung und abnehmenden Nutzungsdichten.

Verkehrsplanung ist in die räumliche Gesamtplanung zu integrieren und mit anderen Fachplanungen abzustimmen. Verkehrsplanung findet auf allen Planungsebenen (von der Europäischen bis zur Stadtteilebene) statt. Für die Abschätzung von Verkehrsbedarfen und die Bewertung von Planungsalternativen benötigt die Verkehrsplanung umfangreiche Datengrundlagen. Verkehrsplanung ist die Fachplanung mit der größten öffentlichen und politischen Aufmerksamkeit.

Die koordinierte mittel- bis langfristige Verkehrsplanung des Bundes wird alle 5-10 Jahre im Bundesverkehrswegeplan festgeschrieben. Auf Landesebene dienen Nahverkehrspläne als Grundlage für die Entwicklung des ÖPNV.

Kommunen, Regionen und Länder können Generalverkehrspläne (auch Gesamtverkehrspläne) erstellen, die für den betrachteten Raum eine Konzeption für die Bewältigung jeglichen Verkehrs schaffen. Auf gesamtstädtischer Ebene verfolgt die Verkehrsentwicklungsplanung einen ähnlich umfassenden Ansatz, allerdings unter stärkerer Berücksichtigung der Sozial- und Umweltverträglichkeit des Stadtverkehrs.

Die Planung einzelner Verkehrsprojekte bedient sich je nach Maßstabsebene unterschiedlicher Instrumente, darunter etwa der Planfeststellungsverfahren und der Bauleitpläne. (nach Ahrens 2005:1225ff; ARL 2001c und 2003)

→ Fachplanung, raumwirksame
→ Suburbanisierung
→ Planfeststellung

Urban/Town Planning

Urban or town planning is control of the development of land allocation and distribution, land use, locational distribution, built development, provision of local public infrastructure, and the use of open spaces in the city, as well as the targeted coordination of the various private and public building activities and demand for use within the municipal territory. The purpose of urban planning is to secure and develop the quality of local living and working conditions in their social, economic dimensions, with respect to the built environment, and to cultural and ecological considerations, and it thus a key task of local self-government.

The term urban or town planning clearly subsumes a number of other planning categories, e.g. urban land-use planning, urban rehabilitation, and urban development planning.

It should, however, be added that there is no definitive legal definition of the German term "Stadtplanung" (urban or town planning). It is often used synonymously with "Städtebau," also usually translated as "urban planning".

→ urban land-use planning

→ urban rehabilitation measure

→ urban development planning

Stadtplanung(*)

Stadtplanung ist die Steuerung der Entwicklung der Bodenordnung(-aufteilung), Boden-(Flächen-) nutzung, Standortverteilung, Bebauung, Erschließung und Freiflächennutzung in der Stadt sowie die zielgerechte Koordination der unterschiedlichen privaten und öffentlichen Baumaßnahmen und Nutzungsansprüche innerhalb des Stadtgebietes. Ziel der Stadtplanung ist die Sicherung und Weiterentwicklung der Qualität der örtlichen Lebens- und Arbeitsbedingungen in ihren sozialen, ökonomischen, baulich-räumlichen, kulturellen und ökologischen Dimensionen und damit eine zentrale Aufgabe der kommunalen Selbstverwaltung.

Es wird deutlich, dass der Begriff der Stadtplanung als Oberbegriff mehrere Planungskategorien umfasst, so z. B. die Bauleitplanung, die städtebauliche Sanierung und die Stadtentwicklungsplanung.

Es bleibt jedoch anzumerken, dass für den Begriff der Stadtplanung keine einheitliche, rechtlich fixierte Definition existiert und häufig die Begriffe Stadtplanung und Städtebau synonym verwandt werden. (Zusammenfassung aus Sander (o.J.) und ARL 2003)

→ Bauleitplanung

→ städtebauliche Sanierungsmaßnahme

→ Stadtentwicklungsplanung

Urban Design Competition

For centuries, competitions have been used to find the best ideas and solutions for architectural and urban development tasks. But only since 1868 has there been generally binding regulation of competitions, the beginning of the formalised competition system. Urban design competitions became increasingly important in the course of urban expansion in the second half of the 19th century. Decisive for the practical advance of the new discipline urban planning were the major binding land-use plan competitions in the late 19th century for Vienna and Munich, and, in the first decade of the 20th century, the ideas competition for the Greater Berlin urbanisation area. In the first years after the Second World War, housing was the focus of attention for competitions.

In the early 1980s, the competition system gained new impetus in the field of low-cost, space-saving housing development. In the late 1980s, housing and urban development guidelines in several states made subsidisation contingent on competitive planning procedures in the form of ideas and realisation competitions. In the 1990s, competition procedures were differentiated. The premature use of urban design competitions before tasks, programmes, and terms

Städtebaulicher Wettbewerb

Wettbewerbe werden seit Jahrhunderten eingesetzt, um für architektonische und städtebauliche Aufgaben die jeweils besten Ideen und Lösungen zu finden. Eine allgemein verbindliche Wettbewerbsordnung gibt es aber erst seit 1868, dem Beginn des formalisierten Wettbewerbswesens. Städtebauliche Wettbewerbe gewannen im Zuge der Stadterweiterungen in der zweiten Hälfte des 19. Jahrhunderts an Bedeutung. Maßgeblich für die praktische Weiterentwicklung der neuen Disziplin Städtebau waren die großen Bebauungsplanwettbewerbe Ende des 19. Jahrhunderts für Wien und München sowie im ersten Jahrzehnt nach der Jahrhundertwende der Ideenwettbewerb für den Verstädterungsraum Groß-Berlin. In den ersten Jahren nach dem Zweiten Weltkrieg bestimmten Wohnungsbaufragen das Wettbewerbswesen.

Anfang der 1980er Jahre erfuhr das Wettbewerbswesen eine Belebung im Bereich des Kosten- und flächensparenden Wohnungsbaus. Mehrere Bundesländer banden Ende der 1980er Jahre die Vergabe von Förderungsmitteln in ihren Wohnungs- und Städtebaurichtlinien an die Durchführung konkurrierender Planungsverfahren, als Ideen- oder Realisierungswettbewerb. In den 1990er Jahren folgte eine

of reference had been adequately clarified tended to engender scepticism about the classical, anonymous competitions. Cooperative and discursive procedures gained ground, and cooperation between various planning disciplines became a matter of course.

The Basis and Guidelines for the Competition System (GRW) having been considerably modified over the decades, competitions are now organised in accordance with the GRW 95 or the Rules for the Organisation of Competitions 2004 (RAW) that apply in the states of North Rhine-Westphalia, Lower Saxony, Saxony-Anhalt and Bremen.

Differenzierung der Wettbewerbsverfahren. Vor allem der verfrühte Einsatz von städtebaulichen Wettbewerben ohne ausreichende Klärung von Aufgabe, Programm und Rahmenbedingungen beförderte eine eher skeptische Haltung gegenüber den klassischen anonymen Wettbewerben. Kooperative und diskursive Verfahren gewannen an Bedeutung, die Zusammenarbeit verschiedener planerischer Disziplinen wurde zur Selbstverständlichkeit.

Nach zahlreichen Änderungen der Grundlagen und Richtlinien für das Wettbewerbswesen (GRW) über die Jahrzehnte finden Wettbewerbe heute auf Basis der GRW 95 oder der in den Ländern Nordrhein-Westfalen, Niedersachsen, Sachsen-Anhalt und Bremen geltenden Regeln für die Auslobung von Wettbewerben (RAW) 2004 statt.

Urban Development Concept

see urban development planning

Stadtentwicklungskonzepte

siehe Stadentwicklungsplanung

Urban Development Contract

The term urban development contract is applied to a range of contractual agreements under urban development or planning law. The subject of an urban development contract can, for example, be the preparation and implementation of urban development measures by, and at the expense of, the private party to the contract. Measures of this type might include land reallocation or soil decontamination. A further possible subject for an urban development contract could the promotion and securing of urban land-use planning aims, with regard, for example, to the use of a property, to impact mitigation measures, or to meeting the housing needs of specific groups of the population. The municipality and a private partner may also enter into an urban development contract to settle the assumption of costs or other liabilities which the municipality has incurred or expects to incur in respect of urban development measures which are prerequisites or direct consequences of the planned development project (e.g. providing the site). In recent years, urban-development contracts have become an important supplementary tool in urban land-use planning, and have to some extent superseded classical governmental measures like bye-laws (or municipal statutes). Urban development contracts are regulated by the Federal Building Code (Sections 11, 124).

→ planning law, urban development law

→ urban land-use planning

→ private-public partnership

Städtebaulicher Vertrag(*)

Als städtebaulichen Vertrag bezeichnet man verschiedene Arten von Vertragswerken im Städtebaurecht. Gegenstand eines städtebaulichen Vertrages kann zum einen die Vorbereitung und Durchführung städtebaulicher Maßnahmen durch einen privaten Vertragspartner auf seine Kosten sein. Zu diesen Maßnahmen zählen beispielsweise die Neuordnung der Grundstücksverhältnisse oder Maßnahmen der Bodensanierung. Ein zweiter möglicher Vertragsgegenstand bezieht sich auf die Förderung und Sicherung der mit der Bauleitplanung verfolgten Ziele, etwa im Hinblick auf die Grundstücksnutzung, die Durchführung von Ausgleichsmaßnahmen für Eingriffe oder die Deckung des Wohnbedarfs spezieller Bevölkerungsgruppen. Drittens kann die Übernahme von Kosten oder sonstigen Aufwendungen, die der Gemeinde für städtebauliche Maßnahmen entstehen oder entstanden sind und die Voraussetzung oder Folge des geplanten Vorhabens sind, wie etwa die Bereitstellung von Grundstücken, Gegenstand eines städtebaulichen Vertrages zwischen der Gemeinde und einem privaten Vertragspartner sein. Städtebauliche Verträge sind in den vergangenen Jahren zu einem wichtigen ergänzenden Instrument der Bauleitplanung geworden und haben klassische hoheitliche Maßnahmen, etwa in Form von Gemeindesatzungen, teilweise verdrängt. Städtebauliche Verträge sind im Baugesetzbuch (§§11, 124) geregelt. (nach ARL 2003; Greiving 2005:226f; Schmidt-Eichstaedt 2005:263ff)

→ Bauplanungsrecht, Städtebaurecht

→ Bauleitplanung

→ Public Private Partnership

Urban Development Measure

The purpose of urban development measures under the Federal Building Code is to develop urban districts or other parts of the municipal territory in keeping with their particular significance for urban development within the municipality, or in accordance with the desired development of the state district or the region, or to make such areas available for new development within the framework of urban reorganisation. Measures of this type are to serve the public interest, particularly in meeting the demand for housing and employment, for public amenities and associated facilities, and in returning derelict land to productive use. Moreover, urban development measures may only be undertaken where there is a public interest in uniform development and speedy implementation. By resolution of the local council (the urban development statute), the municipality may formally designate an area in which urban development measures are to be implemented as an urban development zone. The municipality is then required to draw up binding land-use plans for area without delay and to undertake all of the measures required to implement development.

→ Federal Building Code
→ municipality, local authority
→ region
→ binding land-use plan
→ urban rehabilitation measure

Städtebauliche Entwicklungsmaßnahme(*)

Mit städtebaulichen Entwicklungsmaßnahmen, die im Baugesetzbuch gesetzlich geregelt ist, sollen Ortsteile und andere Teile des Gemeindegebiets entsprechend ihrer besonderen Bedeutung für die städtebauliche Entwicklung und Ordnung der Gemeinde oder entsprechend der angestrebten Entwicklung des Landesgebiets oder der Region erstmalig entwickelt oder im Rahmen einer städtebaulichen Neuordnung einer neuen Entwicklung zugeführt werden. Die Maßnahmen sollen dem Wohl der Allgemeinheit dienen, insbesondere durch Errichtung von Wohn- und Arbeitsstätten sowie von Gemeinbedarfs- und Folgeeinrichtungen, oder zur Wiedernutzung brachliegender Flächen. Die einheitliche Vorbereitung und zügige Durchführung dieser Maßnahmen muss im öffentlichen Interesse liegen. Die Gemeinde legt den Bereich, in dem eine Entwicklungsmaßnahme durchgeführt werden soll, förmlich als städtebaulichen Entwicklungsbereich fest und beschließt es als Satzung (Entwicklungssatzung). Die Gemeinde hat für den städtebaulichen Entwicklungsbereich ohne Verzug Bebauungspläne aufzustellen und alle erforderlichen Maßnahmen zu ergreifen, um die vorgesehene Entwicklung im städtebaulichen Entwicklungsbereich zu verwirklichen. (nach ARL 2003)

→ Baugesetzbuch
→ Gemeinde
→ Region
→ Bebauungsplan
→ städtebauliche Sanierungsmaßnahmen

Urban Development Planning

Urban development planning is that part of the planning activities of a municipality which is concerned with settling development aims either for the entire municipal territory or for specific sections of it. It thus sets the framework for urban development suited to meeting the social, cultural and economic needs of the community. This framework includes capital investment on the part of the municipality, where this has implications for spatial development, and lays down the sequence and order of priority. Urban development planning also serves to draw together and co-ordinate the various sectoral plans and to focus them on one common goal. It is this cross-sectoral dimension of urban development planning that sets it apart from urban land-use planning, the role of which is limited to preparing and steering the use of land in the municipal territory for building or for other purposes. Unlike urban land-use planning, urban development planning does not focus on the

Stadtentwicklungsplanung(*)

Als Stadtentwicklungsplanung wird die Planung einer Gemeinde bezeichnet, welche die Zielvorstellungen für den Gesamtbereich der gemeindlichen Entwicklungen oder für Teilbereiche enthält. Durch sie wird der Rahmen für eine den sozialen, kulturellen und wirtschaftlichen Erfordernissen dienende städtebauliche Entwicklung gesetzt. Dieser Rahmen schließt raumwirksame Investitionen der Gemeinde mit ein und bestimmt deren Zeit- und Rangfolge. Mit der Stadtentwicklungsplanung werden die verschiedenen Fachplanungen auf eine Zielvorstellung ausgerichtet und aufeinander abgestimmt. Durch diesen umfassenden Aufgabenbereich unterscheidet sich die Stadtentwicklungsplanung von der Bauleitplanung, deren Aufgabe darauf beschränkt ist, die bauliche und sonstige Nutzung der Grundstücke in der Gemeinde vorzubereiten und zu leiten. Im Gegensatz zur Bauleitplanung liegt der Schwerpunkt der Stadtentwicklungsplanung nicht auf der graphi-

graphical presentation of future spatial developments but on mostly verbal statements about the goals and means of steering development. Urban development planning is not governed by federal law; essentially it is up to the municipalities to decide informally and at their own discretion whether to make use of this planning instrument.

Concepts are often developed using dialogue-oriented procedures like urban forums, planning and future search workshops, and public urban development discussions. They are accordingly less regulatory than process and procedure-oriented. Such concepts represent no all-embracing claim to control and implementation. They provide a basis for reaching agreement on objectives and guiding principles and a matrix for evaluating individual planning steps and projects. The comprehensive integrated urban development concepts and urban development concepts defining the goals of development in shrinking communities are particularly important in the context of urban redevelopment.

→ urban land-use planning

→ models for urban development

→ urban redevelopment

Urban Land-Use Plan

see urban land-use planning

Urban Land-Use Planning

On the basis of the Federal Building Code, local authorities undertake development planning in the form of urban land-use planning on their own responsibility (local planning autonomy). The function of urban land-use planning is to prepare and organise the use of plots within the municipal territory for building and other purposes in accordance with the Federal Building Code.

Land-use plans drawn up by local authorities are to safeguard sustainable urban development and a socially equitable utilisation of land for the general good of the community, and to secure a more humane environment, and to protect and develop natural resources.

Land-use planning "dedicates" land for specific uses (e.g. housing, commerce, public amenities). It may also lay down restrictions (e.g. maximum lot coverage, maximum number of storeys, etc.), obligations (e.g. housing for specific categories of person), and requirements with respect to the implementation of the use in question (e.g. noise control, greenery).

schen Darstellung künftiger räumlicher Entwicklungen, sondern auf den meist verbalen Aussagen über die Ziele und Mittel der Entwicklungslenkung. Die Stadtentwicklungsplanung wird im Bundesrecht nicht geregelt; es bleibt den Gemeinden jedoch unbenommen, dieses Instrument freiwillig – und informell – einzusetzen.

Die Konzepte werden häufig unter Einsatz dialogorientierter Verfahren wie Stadtforen, Planungs- und Zukunftswerkstätten sowie öffentlichen Stadtentwicklungsgesprächen entwickelt. Sie sind demzufolge weniger regelungs- als prozess- und verfahrensorientiert angelegt. Mit diesen Konzepten wird kein umfassender Anspruch auf Steuerung und Umsetzung erhoben, vielmehr dienen sie als Verständigungsbasis über Leitziele und Leitbilder sowie als Bewertungsraster für einzelne Planungsschritte und Projekte. Insbesondere im Rahmen des Stadtumbaus erhalten die gesamtstädtischen Integrierten Stadtentwicklungskonzepten (ISEK) und städtebauliche Entwicklungskonzepte, mit denen Entwicklungszielen unter Schrumpfungsbedingungen definiert werden, eine große Bedeutung. (nach ARL 2003)

→ Bauleitplanung

→ Leitbilder der Stadtentwicklung

→ Stadtumbau

Bauleitplan

siehe Bauleitplanung

Bauleitplanung(*)

Auf der Grundlage des Baugesetzbuches nehmen die Gemeinden die städtebauliche Planung als Bauleitplanung in eigener Verantwortung wahr (kommunale Planungshoheit). Die Bauleitplanung hat als zentrales Instrument der städtebaulichen Planung die Aufgabe, die bauliche und sonstige Nutzung der Grundstücke in der Gemeinde nach Maßgabe des Baugesetzbuchs vorzubereiten und zu leiten.

Die von den Gemeinden aufzustellenden Bauleitpläne sollen nach Maßgabe nachhaltiger städtebaulicher Entwicklung eine dem Wohl der Allgemeinheit entsprechende sozialgerechte Bodennutzung gewährleisten und dazu beitragen, eine menschenwürdige Umwelt zu sichern sowie die natürlichen Lebensgrundlagen zu schützen und zu entwickeln.

Gegenstand der Bauleitplanung ist die „Widmung" von Flächen für bestimmte Nutzungen (z. B. Wohnen, Gewerbe, Gemeinbedarf). Auch können Beschränkungen (z. B. Höchstmaß für die Grundstücksüberbauung, für die Geschosszahl usw.), Bindungen (z. B. Wohnungen für bestimmte Personengruppen) und Maßgaben für die Verwirklichung

Urban land-use planning is a two-stage process involving two types of plan:
- the preparatory land-use plan (Flächennutzungsplan, FNP) and
- the binding land-use plan (Bebauungsplan).

The preparatory land-use plan provides the framework for preparing binding land-use plans The two types of plan differ essentially as regards spatial scope, detail, legal form, and legal effects. Otherwise there are governed by largely similar rules, especially with respect to planning principles and procedures for plan preparation.

The Federal Building Code and the Federal Spatial Planning Act require local planning authorities to ensure that land-use plans conform with the goals of spatial planning. The Federal Building Code thus takes account of the functional dovetailing of state or regional planning and urban land-use planning. At the same time, the importance of state and regional planning in setting the framework for urban land-use planning is stressed.

→ binding land-use plan

→ preparatory land-use plan

→ local planning autonomy, local self-government

→ Federal Building Code

der betreffenden Nutzung (z. B. Verpflichtung zu Lärmschutz, Pflanzung) festgesetzt werden.

Die Bauleitplanung umfasst zwei Stufen:
- den Flächennutzungsplan und
- den Bebauungsplan.

Der Flächennutzungsplan bildet den Rahmen für die Aufstellung von Bebauungsplänen. Flächennutzungsplan und Bebauungsplan unterscheiden sich im Wesentlichen in Bezug auf den räumlichen Geltungsbereich, in dem Grad der Konkretisierung und Spezifizierung ihrer Aussagen, in ihrer Rechtsform und in ihren Rechtswirkungen. Ansonsten unterliegen sie weitgehend gleichen Regeln, insbesondere was die Planungsgrundsätze und die Verfahren der Planaufstellung betrifft.

Die Vorschriften des Baugesetzbuches und des Raumordnungsgesetzes richten an die gemeindlichen Planungsträger das Gebot, die Bauleitpläne an die Ziele der Raumordnung anzupassen bzw. sie zu beachten. Durch diese Anpassungspflicht trägt das Baugesetzbuch der funktionalen Verzahnung von Landes- bzw. Regionalplanung und Bauleitplanung Rechnung. Zugleich wird die Bedeutung der Landes- und Regionalplanung in ihrer rahmensetzenden Funktion für die Bauleitplanung hervorgehoben. (nach ARL 2002)

→ Bebauungsplan

→ Flächennutzungsplan

→ Kommunale Planungshoheit/Kommunale Selbstverwaltung

→ Baugesetzbuch

Urban and Village Renewal

The aim of urban and village renewal is to preserve, renew and revitalise communities. Such measures strive to improve and adjust the settlement and built structure of all sections of the national territory, both to provide the general population with healthy living and working conditions and to meet changing social, hygienic, economic and cultural requirements. They also play an important part in improving economic and agricultural structure, satisfying conservation requirements, improving the visual quality of localities and landscape, and in the conservation of historic monuments. Urban rehabilitation instruments can be used for urban renewal. Some states have introduced special rules for village renewal (village renewal guidelines) relating to such matters as the preparation, implementation, and promotion of village development and renewal. (ARL 2003)

→ urban rehabilitation measure

Stadterneuerung, Dorferneuerung*

Stadt- und Dorferneuerung haben die Erhaltung, Erneuerung und Revitalisierung von Städten und Gemeinden zum Ziel. Ihre Aufgabe ist die Entwicklung und die Anpassung der Siedlungs- und Baustruktur in allen Teilen des Bundesgebiets an gesunde Lebens- und Arbeitsbedingungen der Bevölkerung und an die sich wandelnden sozialen, hygienischen, wirtschaftlichen und kulturellen Erfordernisse. Sie sollen zugleich zur Verbesserung der Wirtschafts- und Agrarstruktur beitragen, den Erfordernissen des Umweltschutzes dienen, die Gestaltung des Orts- und Landschaftsbildes verbessern und dem Denkmalschutz Rechnung tragen. Maßnahmen der Stadterneuerung können z.B. mit dem Instrument der städtebaulichen Sanierung durchgeführt werden. Für das besondere Aufgabenfeld der Dorferneuerung haben einzelne Länder spezielle Regelungen (Dorferneuerungsrichtlinien) getroffen, die sich auf die Vorbereitung, Durchführung und Förderung der dörflichen Entwicklung und Erneuerung beziehen. (ARL 2003)

→ städtebauliche Sanierungsmaßnahme

Urban Region

"Stadtregion" or urban region is the term applied to the core of a conurbation, consisting of a core city and surrounding suburban communities (umland or urban field). In contrast to the broader concepts agglomeration, conurbation, or metropolitan region, the urban region does not include rural peripheral areas but only the immediate, heavily built-up surroundings of the core city.

Unlike "Verdichtungsraum" (sometimes translated as "urban concentration") which is a spatial planning category and as such is defined in the relevant plans, "urban region" is a statistical concept. It is also often used in connection with the city/environs issue, where it denotes the sum of city and environs, i.e. the spatial frame of reference of the conflict. Suburbanisation continues to shift the focus of residential, industrial and commercial development within urban regions from central cities to the suburbs.

→ agglomeration, conurbation, metropolitan area
→ metropolitan region
→ spatial category
→ catchment area
→ suburbanisation

Stadtregion

Als Stadtregion bezeichnet man den Kern eines Ballungsraums, bestehend aus einer Kernstadt und ihren suburbanen Vorortgemeinden (auch als Umland bezeichnet). Im Gegensatz zu den weiter gefassten Begriffen Agglomeration, Ballungsraum oder Metropolregion beinhaltet die Stadtregion nicht deren ländlich geprägte periphere Teilräume, sondern nur die unmittelbare, dicht bebaute Umgebung der Kernstadt.

Im Unterschied zu einem Verdichtungsraum, der eine raumordnerische Raumkategorie darstellt und in den entsprechenden Planwerken konkret definiert ist, ist die Stadtregion ein statistischer Begriff Er wird außerdem häufig im Zusammenhang mit der Stadt-Umland-Problematik verwandt, wo er die Summe aus Stadt und Umland, also den räumlichen Bezugsrahmen des Konflikts, beschreibt. Durch die anhaltende Suburbanisierung verschieben sich die Schwerpunkte der Wohn- und Gewerbeentwicklung innerhalb der Stadtregionen weiterhin aus den Kernstädten in das suburbane Umland. (nach Heineberg 2001:55ff)

→ Agglomeration
→ Metropolregion (geographisch weiter gefasst)
→ Raumkategorie
→ Verflechtungsbereich
→ Suburbanisierung

Urban Rehabilitation Measure

Urban rehabilitation measures (Sanierungsmaßnahmen) are defined in the Federal Building Code as those measures by means of which an area is substantially improved or transformed with the purpose of alleviating urban deficits. Measures of this type may be employed only where there is a public interest in uniform preparation and speedy implementation. Urban deficits may be a matter of the quality of the building fabric, i.e. where the existing state or condition of physical development in an area fails to meet the general needs of the people living or working within the area in respect of healthy living and working conditions and general safety; or they may be considered to exist when an area is seriously impaired in its ability to meet the demands made on it by virtue of its position and function.

Urban rehabilitation procedure is laid down in detail in the Federal Building Code; the important stages of this procedure include preparatory investigations, the drawing up of a social plan, public participation, formal designation of the rehabilitation area, infrastructural and building measures, and completion of the procedure. Special funds may be allocated to

Städtebauliche Sanierungsmaßnahme(*)

Unter städtebaulichen Sanierungsmaßnahmen versteht man gemäß Baugesetzbuch die Maßnahmen, durch die ein Gebiet zur Behebung städtebaulicher Missstände wesentlich verbessert oder umgestaltet wird und deren einheitliche Vorbereitung und zügige Durchführung im öffentlichen Interesse liegt. Derartige Missstände können zum einen in der Substanz liegen, wenn ein Gebiet nach seiner vorhandenen Bebauung oder nach seiner sonstigen Beschaffenheit den allgemeinen Anforderungen an gesunde Wohn- und Arbeitsverhältnisse oder an die Sicherheit der in ihm wohnenden oder arbeitenden Bevölkerung nicht entspricht. Zum anderen können die Missstände in der Funktionsfähigkeit liegen, wenn das Gebiet in der Erfüllung der Aufgaben erheblich beeinträchtigt ist, die ihm nach seiner Lage und Funktion obliegen.

Das Verfahren der städtebaulichen Sanierung wird im Baugesetzbuch detailliert festgelegt; wichtige Verfahrensschritte sind dabei die vorbereitenden Untersuchungen, die Aufstellung eines Sozialplans, die Beteiligung, die förmliche Festlegung des Sanierungsgebietes, die Durchführung von Ordnungs- und Baumaßnahmen sowie der Abschluss des

cover the cost of preparing and implementing an urban rehabilitation measure as one single, complete measure. In the normal procedures (not in simplified redevelopment procedures), property owners are also required to contribute to financing through so-called equalisation contributions.

→ Federal Building Code

→ urban development measure

Urban Redevelopment

The term "Stadtumbau" (urban redevelopment) as used in Germany since the 1990s refers to adjustment of existing communities to urban shrinkage with respect to urban design, social structures, municipal and financial policy, and infrastructure. Changes in needs and supply in all areas of life have been caused by a decline in the German population due to outmigration and low birth rates. The aim of urban redevelopment in this sense is to maintain, strengthen, and develop the functional and performance capacity of cities under changing conditions. For this purpose, the federal government initiated the urban development promotion programme Urban Redevelopment East (Stadtumbau Ost) in 2002 and a comparable programme Urban Redevelopment West for West Germany in 2004. Urban redevelopment measures are introduced in areas severely affected by the loss of urban functions, where adjustments are needed to produce sustainable urban structures. Such measures are particularly needed in areas where a persistent surplus of physical structures, especially housing, has developed or is anticipated. The most important measures include the dedevelopment and redesign of major housing estates on the urban fringe built between the 1960s and the 1980s, revitalisation of city centres, and the conversion of previously developed in-centre and edge-city sites. Measures and funding are contingent on implementation-oriented, city-wide development concepts providing a basis on which to plan and steer regeneration. In 2004, urban redevelopment was included in the Federal Building Code under special urban planning legislation.

→ urban development planning

→ building stock development

Sanierungsverfahrens. Zur Deckung der Kosten für die Vorbereitung und Durchführung der städtebaulichen Sanierungsmaßnahme als Einheit (Gesamtmaßnahme) können spezielle Finanzierungs- und Förderungsmittel eingesetzt werden, so genannte Städtebauförderungsmittel. Im Normalverfahren (nicht im vereinfachten Sanierungsverfahren) müssen sich auch die Eigentümer durch sog. Ausgleichsbeiträge an der Finanzierung beteiligen. (nach ARL 2003)

→ Baugesetzbuch

→ Städtebauliche Entwicklungsmaßnahme

Stadtumbau

Der Begriff Stadtumbau, wie er in Deutschland seit Ende der 1990er Jahren verwendet wird, bezeichnet die gestalterische, soziale, kommunal- und finanzpolitische sowie infrastrukturelle Anpassung der bestehenden Städte an Schrumpfungsprozesse. Grund für diese Bedarfs- und Angebotsveränderungen in allen Lebensbereichen ist der quantitative Rückgang der deutschen Bevölkerung durch Abwanderung und Geburtenmangel. Ziel des Stadtumbaus ist die Erhaltung, Stärkung und Weiterentwicklung der Funktions- und Leistungsfähigkeit der Städte unter den sich ändernden Bedingungen. Dazu hat die Bundesregierung 2002 das Städtebauförderungsprogramm „Stadtumbau Ost" für die neuen Bundesländer und 2004 das Programm „Stadtumbau West" für die alten Bundesländer initiiert. Stadtumbaumaßnahmen werden in Gebieten durchgeführt, die von erheblichen städtebaulichen Funktionsverlusten betroffen sind und in denen Anpassungen zur Herstellung nachhaltiger städtebaulicher Strukturen vorgenommen werden. Besonders in Gebieten, in denen ein dauerhaftes Überangebot an baulichen Anlagen insbesondere für Wohnzwecke besteht oder zu erwarten ist, werden Stadtumbaumaßnahmen notwendig. Zu den wichtigsten Maßnahmen zählen der Rückbau und die Umgestaltung der randstädtischen Großsiedlungen der 1960er bis 1980er Jahre, die Revitalisierung der Stadtzentren sowie die Konversion nicht mehr genutzter inner- und randstädtischer Flächen. Grundlage der Maßnahmen und auch Fördervoraussetzung sind umsetzungsorientierte gesamtstädtische Entwicklungskonzepte, die als Handlungsgrundlage für die Planung dienen und Steuerungsfunktion für Umbaumaßnahmen übernehmen. 2004 wurde der Stadtumbau in das besondere Städtebaurecht des Baugesetzbuches übernommen. (nach Bodenschatz/Kegler 2005; Schmidt-Eichstaedt 2005; BBR 2006a; BMVBS 2006a)

→ Stadtentwicklungsplanung

→ Bestandsentwicklung

Urban/City Marketing and Regional Marketing

The terms urban or city marketing and regional marketing (sometimes referred to together as planning marketing) denotes a new strategy under which the marketing approach typical in the commercial sector – and with it the associated methods of corporate management – is applied to regional planning and to local authority planning and planning policy. It makes use of marketing tools like market analysis, marketing strategies, and the orientation of products and services on current and future demand. Characteristic features of this approach include thinking in terms of "target groups", and "customer orientation", the "customers" here being citizens, businesses, professional associations etc., i.e. the addressees of public planning policy.

In local-authority planning and planning policy, municipalities turn to urban marketing in their endeavour to gain a competitive edge over other municipalities. As far as regions are concerned, regional marketing involves business attraction, umbrella marketing for already established firms, and for territorial authorities in connection with tourism. Regional marketing is thus more difficult and limited in scope than city marketing, since competing interests within the region have to be reduced to a common denominator and marketed externally as a whole.

→ region

→ city, town

Stadtmarketing und Regionalmarketing(*)

Die Begriffe Stadt- und Regionalmarketing (vereinzelt zusammenfassend auch Planungsmarketing genannt) bezeichnen eine neue Strategie, bei der der Marketing-Ansatz der Privatwirtschaft unter Einbezug von Management-Methoden auf die Regionalplanung und auf die Kommunalplanung/-politik übertragen wird. Dabei kommen Marketinginstrumente wie Marktanalyse, Vermarktungsstrategien und die Ausrichtung von Produkten und Dienstleistungen an der heutigen und künftigen Nachfrage zum Einsatz. Charakteristische Merkmale sind z.B. die Orientierung an den „Kunden", also Bürgern, Unternehmen, Verbänden etc. als Adressaten der Politik, sowie das Denken in Zielgruppen.

Im Bereich der Kommunalplanung/-politik versuchen einzelne Kommunen im Rahmen des Stadtmarketings ihre Konkurrenzsituation zu anderen Kommunen zu verbessern. In Bezug auf Regionen beinhaltet das Regionalmarketing etwa das Anwerben von Unternehmen auf Standortsuche, das Dachmarketing für vorhandene Unternehmen wie auch der Gebietskörperschaften in Verbindung mit dem Tourismus. Das Regionalmarketing ist insofern schwieriger und hinsichtlich seiner Handlungsfelder begrenzter als beispielsweise das Stadtmarketing, als es z. T. gilt, konkurrierende Interessen innerhalb einer Region auf einen Nenner zu bringen und nach außen als Ganzes zu vermarkten. (nach ARL 2002 und 2003)

→ Region

→ Stadt

Urban-Development Enforcement Orders

An urban development enforcement order is a local authority provision obliging a property owner to undertake a building measure. The Federal Building Code (Sections 172, 176-179) lists the following urban-development enforcement orders: preservation order, building order, modernisation and refurbishment order, planting order, and dedevelopment and de-sealing order (formerly demolition order. The prerequisite for issuing orders of this type as instruments to support implementation of a binding land-use plan is that there is an urgent need for such measures on urban development grounds. The measures are to be discussed beforehand with the affected owners, tenants, and leaseholders. They are, however, obliged to tolerate the measures, but legal remedies are available to them which can delay the actual implementation of the order for years. As a rule the local authority will therefore seek a solution acceptable to all sides before they institute adminis-

Städtebauliches Gebot(*)

Ein städtebauliches Gebot ist eine kommunale Vorschrift, mit der ein Grundstückseigentümer zu einer Baumaßnahme verpflichtet wird. Im Baugesetzbuch werden (§§172, 176-179) das Erhaltungsgebot, das Baugebot, das Modernisierungs- und Instandsetzungsgebot, das Pflanzgebot und das Rückbau- und Entsiegelungsgebot (früher Abbruchgebot) als städtebauliche Gebote benannt. Die Anwendung dieser Instrumente zur Verwirklichung des Bebauungsplanes setzt voraus, dass die alsbaldige Durchführung der Maßnahmen aus städtebaulichen Gründen erforderlich ist. Die Maßnahmen sind zuvor mit den betroffenen Eigentümern, Mietern oder Pächtern zu erörtern. Die Betroffenen haben die Durchführung der Maßnahmen zu dulden, es stehen ihnen jedoch Rechtsmittel zur Verfügung, die die tatsächliche Umsetzung des Gebots um Jahre herauszögern kann. Im Regelfall wird die Gemeinde deshalb nach einer einvernehmlichen Lösung suchen, bevor sie ein Gebot

trative execution proceedings.

→ Federal Building Code

→ binding land-use plan

Utilities

The provision of public utility services is an important element in land improvement. Utility services include:

- water supply, a distinction being made between drinking water and industrial/process water,
- sewage/waste water disposal and treatment
- refuse/waste collection, transport, treatment, and storage
- power supply, including the disposal of all substances created or arising during power generation
- telecommunications.

→ spatially relevant sectoral planning

→ provision of local public infrastructure

Valuation

Determining property values is required in applying certain Building Code tools, for instance in land reallocation, expropriation, and the calculation of compensatory payments in the context of urban rehabilitation and development measures. Property valuation is regulated by the "Ordinance on the Principles for Determining the Current Market Value of Real Estate" (Valuation Ordinance). The enactment of this ordinance is pursuant to the Federal Building Code.

The Valuation Ordinance lays down the factors determining the value of the property (state of development, building use category and density, encumbrances, locational characteristics, etc.) and procedures for assessing current market value and building value (appraisal by comparison, capitalisation, and summation). The standardised market value of a property is defined as the price which would be achieved in an ordinary transaction at the time when the assessment is made, taking into account the existing legal circumstances and the actual characteristics, general condition and location of the property, without consideration being given to any extraordinary or personal circumstances.

Independent committees of experts have been established pursuant to the Federal Building Code to prepare reports on the market value of developed and undeveloped properties for municipalities, counties, and other public authorities, and for courts and judicial authorities, as well as for property owners. Aver-

durch Verwaltungszwangmittel vollstrecken lässt. (nach ARL 2003; Schmidt-Eichstaedt 2005:492ff)

→ Baugesetzbuch

→ Bebauungsplan

Ver- und Entsorgung*

Die Regelung der Ver- und Entsorgung ist ein wichtiger Teilbereich der Erschließung. Sie umfasst:

- die Wasserversorgung, also die Deckung des Bedarfs, unterschieden n. Trink- und Betriebswasser
- die Abwasserableitung und die -reinigung
- das Einsammeln, Befördern, Behandeln und Lagern von Abfällen
- die Versorgung mit Energie, einschließlich der Entsorgung der bei energetischen Umwandlungsprozessen anfallenden Stoffe
- die Versorgung mit Telekommunikationsdiensten. (ARL 2003)

→ Fachplanung, raumwirksame

→ Erschließung

Wertermittlung(*)

Die Ermittlung von Grundstückswerten ist bei der Anwendung einiger Instrumente des Baugesetzbuches erforderlich, so z. B. im Rahmen der Umlegung, der Enteignung und zur Ermittlung der Ausgleichsbeträge bei städtebaulichen Sanierungs- und Entwicklungsmaßnahmen. Die Einzelheiten der Wertermittlung sind durch die „Verordnung über Grundsätze für die Ermittlung der Verkehrswerte von Grundstücken" (Wertermittlungsverordnung – WertV) geregelt. Die Ermächtigungsgrundlage zum Erlass dieser Verordnung ist im Baugesetzbuch enthalten.

In der Wertermittlungsverordnung werden u. a. Aussagen zu den wertbestimmenden Faktoren des Grundstücks (Entwicklungszustand, Art und Maß der baulichen Nutzung, Belastungen, Lagemerkmale, etc.) und zu den Verfahren zur Ermittlung von Verkehrs- und Gebäudewerten (Vergleichswert-, Ertragswert- und Sachwertverfahren) getroffen. Der Verkehrswert (Marktwert) eines Grundstücks wird durch den Preis bestimmt, der zu dem Zeitpunkt, auf den sich die Ermittlung bezieht, im gewöhnlichen Geschäftsverkehr nach den rechtlichen Gegebenheiten und tatsächlichen Eigenschaften, der sonstigen Beschaffenheit und der Lage des Grundstücks ohne Rücksicht auf ungewöhnliche oder persönliche Verhältnisse zu erzielen wäre.

Zur Unterstützung der Wertermittlung sind auf der Grundlage des BauGB selbständige, unabhängige Gutachterausschüsse gebildet worden, die Gutachten über den Verkehrswert von bebauten und unbe-

age property prices are required to be determined on the basis of purchasing price data for each section of the municipal territory (standard land values), at least for building land.

→ land reallocation

→ urban rehabilitation measure

→ urban development measure

bauten Grundtücken im Auftrag von Gemeinden, Kreisen und anderen öffentlichen Behörden, sowie der Gerichte und Justizbehörden, aber auch auf Antrag der Grundstückseigentümer erstatten. Anhand von Kaufpreissammlungen sind für jedes Gemeindegebiet durchschnittliche Lagewerte (Bodenrichtwerte) für den Boden, mindestens für das Bauland zu ermitteln. (nach ARL 2002 und 2003, Schmidt-Eichstaedt 2005)

→ Bodenordnung

→ Städtebauliche Sanierungsmaßnahme

→ Städtebauliche Entwicklungsmaßnahme

Village Renewal

see urban renewal

Dorferneuerung

siehe Stadterneuerung, Dorferneuerung

Weighing of Interests

In preparing decisions in all fields of spatial and sectoral planning, interests typically need to be weighed. This is a key requirement in planning for the benefit of society under the rule of law. A complex theoretical framework has consequently been developed to achieve this in applying building and sectoral planning law. The requirement to weigh interests in urban land-use planning is enshrined in the Federal Building Code. Conflicting public and private interests are to be weighed against each other and given fair consideration This places a duty on municipalities to ensure:

1. that interests are duly weighed,
2. that all matters warranting consideration are covered,
3. that there is no failure to appreciate the importance of public and private interests,
4. and that the balance achieved is proportionate to the objective importance of individual interests.

Within these limits a municipality is free to decide in favour of one interest – and thus against another.

→ spatial planning

→ spatially relevant sectoral planning

→ urban land-use planning and urban land-use plan

→ spatial structure plan

→ principles of spatial planning

Abwägung der Belange(*)

Für alle Bereiche der Raumplanung sowie der Fachplanung ist die Abwägung von Belangen eine typische Aufgabe zur Entscheidungsvorbereitung. Das sog. Abwägungsgebot ist das zentrale Gebot sozialgestaltender rechtsstaatlicher Planung. Deshalb wurde für das Bau- und Fachplanungsrecht eine differenzierte Lehre zur Abwägung entwickelt. Das Abwägungsgebot für Bauleitpläne ist rechtlich im Baugesetzbuch verankert. Danach sind bei der Aufstellung der Pläne die öffentlichen und privaten Belange gegeneinander und untereinander gerecht abzuwägen. Dies verpflichtet die Gemeinde dazu, dass

1. eine Abwägung überhaupt stattfindet,
2. in die Abwägung der Belange eingestellt wird, was nach Lage der Dinge berücksichtigt werden muss,
3. weder die Bedeutung der betroffenen öffentlichen und privaten Belange verkannt wird,
4. noch der Ausgleich zwischen ihnen in einer Weise vorgenommen wird, die zur objektiven Gewichtigkeit einzelner Belange außer Verhältnis steht.

Innerhalb dieses Rahmens kann sich die Gemeinde für die Bevorzugung des einen und damit notwendig für die Zurücksetzung eines anderen Belanges entscheiden. (nach ARL 2003)

→ Raumplanung

→ Fachplanung

→ Bauleitplanung/ Bauleitplan

→ Raumordnungsplan

→ Grundsätze der Raumordnung

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At a time when Europe is growing together, cooperation between countries is becoming increasingly necessary. One of the main reasons for pursuing transnational spatial development is to attain a common understanding of the facts of spatial planning. Hence, the INTERREG III B project "COMMIN" sought to establish a common communication basis for the exchange of knowledge and experience in spatial planning and thus to foster and develop this understanding in the Baltic Sea region. Therefore, on the basis of a standardized structure the COMMIN project partners prepared basic information about institutional settings and spatial planning systems and compiled a glossary of key terminology in spatial planning accompanied by a varying range of fact sheets with respect to planning cases taken as examples.

The readers will now find on www.commin.org the whole range of information covering the respective national languages as well as English translations, although in some countries official translations for these issues were lacking. The project partners were aware of the fact that each translation requires a balancing act between legal precision and communicable classification and, at the end, is a question of definition power and of different senses for semantics.

The German text on hand (status December 2006) – one information package out of eleven – was prepared by a team comprising planners, lawyers, economists, and administrative academics. Actually no other publication treating this subject in English exists and it will hopefully contribute not only to understanding planning issues in Europe but also to transferring in this respect information and knowledge within the country. Anyway, being aware of differences between countries is a point of departure for the mutual understanding process.

Die Notwendigkeit zur Kooperation nimmt mit dem Zusammenwachsen Europas beständig zu. Einer der Hauptgründe für transnationale Raumentwicklung ist es, ein gemeinsames Verständnis für räumliche Planung zu entwickeln. Demzufolge hat das INTERREG III B Projekt „COMMIN" sich angeschickt, eine gemeinsame Kommunikationsbasis für den Austausch von Wissen und Erfahrungen bereitzustellen und damit ein solches Verständnis im Ostseeraum zu stärken und zu entwickeln. Daher haben die Projektpartner von COMMIN auf der Basis einer standardisierten Struktur Basisinformationen über institutionelle Rahmenbedingungen und räumliche Planungssysteme aufbereitet sowie ein Glossar zur raumordnerischen Planungsterminologie zusammengetragen und begleitend Faktendatenblätter zu einer Reihe von Planungsbeispielen erarbeitet.

Die Leser finden nun unter der Webadresse www.commin.org die gesammelten Informationen sowohl in der jeweiligen Nationalsprache wie auch in deren englischer Übersetzung, wenngleich nicht in allen Ländern offizielle Übersetzungen dieser Inhalte vorhanden waren. Die Projektpartner waren sich sehr wohl bewusst darüber, dass jede Übersetzung einen Balanceakt zwischen rechtlicher Präzision und verständlicher Zuordnung darstellt, schließlich aber eine Frage von Definitionsmacht und Sprachempfinden ist.

Der vorliegende deutsche Text (Stand Dezember 2006), einer von elf Informationsbausteinen, wurde von einem Team aus Planern, Juristen, Ökonomen und Verwaltungswissenschaftlern erarbeitet. Derzeit liegt keine andere Publikation vor, die sich dieses Themas auf Englisch annimmt. Mit ihr ist die Hoffnung verknüpft, sowohl zum Verständnis für Planungsfragen in Europa als diesbezüglich auch zum Transfer von Information und Wissen innerhalb Deutschlands beizutragen. In jedem Fall ist das Wissen über Unterschiede zwischen Ländern ein Ausgangspunkt für das bessere Verständnis untereinander.

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