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SPATIAL PLANNING IN THE UNITED STATES OF AMERICA AND POLAND

Summary

The paper presents spatial planning system currently mandatory in Poland, as well as main changes concerning the principles of spatial planning and management in Poland after the system transformation. The work addresses particularly the issues of de-centralization of public administration and establishing commune self-governments, socialization of spatial planning, protection of private property and also the obligation to consider appropriate instruments of natural protection in the process of spatial planning and management. The paper presents also the basic principles of spatial planning in the United States of America and points out the similarities and differences between the methods, procedures and assumptions of spatial planning systems in both countries. The work presents potential areas of cooperation between both universities comprising sharing knowledge and exchanging experiences in the filed of spatial planning and management.

Key words: Spatial planning, USA, Poland

INTRODUCTION

Spatial planning in Poland forms a part of the general system of social and economic planning. Its role is to determine forms of use for particular areas and formulate management principles for them.

The basic legal act regulating the question of spatial planning in Poland is the Act of 23 March 2003 on Spatial Planning and Development [Ustawa 2003]. This act determines the principles of formulating spatial policies carried out by territorial self-government units and government administrative bodies; it defines the scope of activities and procedures to follow when forms of use for particular areas are being defined as well as outlines development principles for these areas, assuming that spatial order and sustainable development lie at the basis of these activities. In the section concerned with legal outcomes of passing

(changing) local master plans, the Act clarifies the relationship between the execution of property rights and provisions of the existing spatial development plan [Hausner et al. 1995].

The aim of this paper is to analyze and compare the spatial planning systems in the USA and Poland, showing the similarities and differences between procedures, methods and assumptions in and of these systems. Next we will reflect on the possibilities for both countries, and both systems, to learn from each other, to use the other as a source of inspiration and innovation.

SPATIAL PLANNING SYSTEM IN POLAND

The system of legal acts on Polish spatial policies is composed of the following documents: the National Spatial Development Scheme, programmes including government tasks of implementing public objectives of national importance, and other planning documents (reports on the condition of spatial development in Poland, and various analyses and planning studies).

It is through the National Spatial Development Scheme that the state shapes its spatial policies. This Scheme serves as a basis for programmes aiding in the implementation of public purpose investments of national importance [Niewiadomski 2003].

A fundamental planning act at the level of voivodeship self-government is a voivodeship master plan. It is linked with a voivodeship development framework which defines directions of economic development. The voivodeship spatial development plan is not a universally binding legal act even though it is binding for public administration. In that respect, regulations set out in this plan have an influence on communes when they compile their studies of determinants and directions of spatial development.

Apart from the voivodeship master plan and the voivodeship development framework, other legal documents of a specialised character can function in the area, such as road network development plan, technical infrastructure development plan, or others.

Local master plans are fundamental instruments of area management in communes. Spatial planning at the level of a commune has a double role. On the one hand, it is supposed to formulate the commune's spatial policy, that is objectives and directions concerning spatial development. On the other hand, the role of local spatial planning is to establish forms of land use and principles of land development and management [Piech 1993].

Two kinds of spatial planning documents are compiled for communes: master plans, which are legal acts universally binding, and planning acts defining local spatial policy, called studies of determinants and directions of spatial development [Niewiadomski 2005].

A study of determinants and directions of spatial development outlines the spatial development scheme for a given commune. This study precedes the enactment of a local master plan and its essential role is to enable municipal authorities to influence future spatial solutions even before the municipal regulation, that is the local plan, is enacted [Piech, Gawroński 1997].

The next stage of the process of local spatial development is creation of the local master plan. The plan is a legal document in which findings adopted in the study of determinants and directions of spatial development are written down. It has to be pointed out that the local master plan, contrary to the study of determinants and directions of spatial development, does not have to be drawn up for the entire area of the commune [Gawroński 2007].

After the local master plan has been drawn up and endorsed, its implementation, that is land management, begins. To put it simply, it consists of issuing building permits for areas covered by a local master plan, decisions about building provisions for areas that do not have a valid local master plan, and decisions about the localisation of public purpose investments.

In the US, there is no overarching system of spatial planning, and the constitution would make it very hard to introduce one [Elliott 2008]. In the institutional development of the US, the principles of *localism, legalism and individualism* shaped much of the features and limitations of spatial planning [Platt 2003, Van Assche 2008]. Local government (cities, townships, counties) is stronger than in any European country, the principle of self-organization stronger. According to the letter of the law, the States have planning power, since it is State legislation that enables the existence of local governments [Merriam 2004], and defines their planning powers. In practice, however, local governments and its constituents rarely allow the state to interfere directly in planning matters. There is no American planning strategy or procedure, and there are just a few states with a state-wide planning strategy with significant impact – Oregon being the most famous one [Platt 2003].

Legalism comes into play since planning is seen as development, and development is largely a private matter [Van Assche and Leinfelder 2008]. Private individuals and companies generally take initiative in proposing development, local government gives permits, and higher levels of government interfere only indirectly, most of all through federal-level environmental legislation – like the clean water act and the clean air act, the wetland protection act [Randolph 2003]. Property rights are defined very strongly: the bundle of use rights and obligations that define what 'property' means in America, is more substantial than in most European countries. That means that development rights usually flow from property rights, and that it is hard for governments to limit or steer development [Jacobs 1998].

Legally, local governments have the right to do zoning and land-use planning, separating uses, and guiding development, but in practice, the political

backlash against non-trivial and actually enforced zoning is very strong in most states, so even if adopted, zoning plans do not exert much power [Babcock 1966]. Moreover, the arguments local governments have to use to legally defend their plans – *safety, health and well-being of the citizens* – are not always easily linked to individual rights, and these individual rights often take precedence in court decisions [Elliott 2008, Jacobs 1998]. Even in seemingly simple cases, like pollution of a lake by leaking septic systems of homes around it, it is not easy to force all lakeshore residents to follow an environmental plan, since the pollution cannot be easily linked to their individual behavior and responsibility.

Since property rights are so strongly defined, it is easy to mount a legal defense against any plan perceived as unfair by you. The US constitution guarantees the owner the right to use land to the extent that it does not interfere with the health, safety and well-being of other citizens. Plans since the 1920's have been couched in that rhetoric, but since the 1980's, the Reagan era, the so-called property rights movement has been unravelling many claims by local governments that their plans were actually needed to ensure safety, etc. [Jacobs 1998, Platt 2003] Since then, the courts have shot down many plans, and many cases of eminent domain within the context of plans (governments forcing owners to sell to them). All in all, this reassertion of strong property rights meant an increased role of the courts in spatial decision-making, partly indirectly, because of the fear instilled in local governments to engage in spatial planning at all.

In the cases that local governments do entertain the idea of planning, usually two documents are relevant: land use plans and comprehensive plans [Sies and Silver 1996]. Land use plans, or zoning plans, indicate the acceptable uses of a site, and are supposed to be legally binding. In fact, zoning plans have the status of local law. People derive rights easier from the zoning plan, and the jurisprudence of the US makes it usually easier to enforce zoning plans. Comprehensive plans are supposed to guide the development of a city in a desired direction; it usually shows where development is supposed to take place, what kind of development, and also, which green and rural infrastructure is envisioned. In many states, cities are not obliged to have comprehensive plans (most states do have zoning, but not all, e.g., Texas). In case there is a comprehensive plan, it cannot be easily enforced: often local politics sees it more as prediction of future development than as plan. If development moves in an unanticipated direction, then the plan is perceived to be 'wrong'.

In case there is a comprehensive plan, usually the zoning plan takes legal precedence [Elliott 2008]; in other words, if the comprehensive plan calls for something that is not specified in the zoning plan (and often it is not), then the comprehensive plan can easily be dismissed by property owners. It becomes easier for property owners then to present the governmental action embodied in the plan as a 'taking', that is, an illegal reduction of the property value, and something that has to be compensated for. However – remember the principle of

localism – legal practice is diverse in the US, and e.g. in Minnesota, most of the state gives legal precedence to zoning plans, but in the Minneapolis-St Paul metropolitan area, the regional government decided to give precedence to comprehensive plans. That means that they are easier to enforce, and that the chances increase to do something that would be recognized as planning in Europe – guiding the spatial development of a city envisioning principles that contribute to the common good.

Between cities and states comes the level of the county. In most places, city planning is far more influential than county planning, but also here, there are exceptions. In many states, *townships,* the most elementary form of local government, dot the rural areas [Platt 2003]. Townships are not incorporated, that means, they are not part of a city, they do not have sewer and water (but septics and wells) and are responsible for local roads, fire brigade, emergency services, sometimes a school. This is the original model for settlement of the wild west, a small community, self-reliant, self-organizing, as a collection point of agricultural products and a point where basic services were offered (barber, bar, baker). A township is usually not involved in planning in any sense, and people living in townships are often more anti-government (hence anti-planning) than people living in cities (do keep in mind that cities can be small, even less than 1000 people). In these townships, the only plan with a potential impact is the county plan. Most counties in most states do have a spatial planner, and their role varies widely and wildly. In progressive counties in progressive states, the county might try to impose ambitious plans on the townships, but even there, the townships in that county might have a radically different political culture than the cities there, and the progressive county government, supported by, say 80% of the population, might still hit the wall in 80% of the territory, if the rural townships are large. County planners, even more than city planners, therefore are to a large extent educators of the local communities, trying to convince them that cooperating on a plan might be better in the long run than insisting on private property rights and allowing community problems to aggravate over time.

Special mention should be made of a different type of plan, a PUD, *planned unit development,* a planning tool that emerged in the 50's, originally seen as an exception to the framework of the zoning plan [Elliott 2008], but in many places developed into standard practice. A PUD is an agreement between a local government and a developer, the result of a negotiation. Typically, the developer is allowed to ignore some of the rules in the zoning plan, e.g. to create higher densities, and is promising in return to do something for the community, to preserve some nice wetland, create a park, a bike trail and so forth. The detailed site plan of a PUD is the most direct representation of the negotiation. Since every negotiation is different, every PUD will be different, and the consistency envisioned in zoning plan and comprehensive plan can easily be lost. Regarding enforcement, there is a clear difference with these other plans, since

both parties usually want to enforce the agreement expressing a balance of their interests. Unfortunately, this is not always the case, and many cities have negotiated PUD's allowing for higher densities, without seeing the green space promised by the developer, and without resorting to the courts – while developers do this much more easily.

What Americans call 'master planning' is usually large-scale development with site design more detailed and more consistent than usual. It is implicitly differentiated from 'cookie-cutter-developments', where the architecture is generic, and landscape architecture and urban design either trivial or absent. Within the population of master-planned communities, one can observe a variety of new styles of planning and design: there are transport-oriented developments (TOD), focusing on higher densities and mixed use around public transportation hubs, New Urbanism neighbourhoods, attempting to re-create old city neighbourhoods in new developments, and more idiosyncratic designs, depending on the taste of the developer and his advisors [Sies, Silver 1996, Duany, Plater-Zyberk 1990]. One instrument that has been propagated for master-planned communities in the last years, is the so-called Form Based Coding (FBC), a type of coding that ought to replace the traditional zoning plan, and that is not so much interested in separating land uses, as in the creation of beautiful and multifunctional spaces. Unfortunately, the political-legal situation described briefly, does not favour the application of FBC, TOC and relatives, and these planning tools do remain exceptions in the American landscape [Van Assche 2008, Merriam 2004].

STRUCTURAL ADJUSTMENTS IN SPATIAL PLANNING AND DEVELOPMENT AFTER POLITICAL TRANSFORMATIONS

Political transformations in Poland, which occurred after 1989, brought about a shift from a centrally planned economy and a centralised system of spatial planning. The new system of spatial planning is primarily characterised by the decentralisation of activities within spatial planning and independence of communes with respect to planning policies.

The current system of spatial planning in Poland differs significantly from the one in place before political transformations. Political transformations in Poland, which occurred after 1989, brought about a shift from a centrally planned economy and a centralised system of spatial planning. A uniform state structure of planning subjects has been replaced by state bodies responsible for the development of national spatial policies and local self-government bodies which define forms of use and development principles for particular areas.

Since 1989, the system of spatial planning in Poland has undergone significant changes with respect to the following fundamental aspects. In each section, we will draw parallels with the evolution of the American planning system.

Evidently, there has been no transition similar to the Polish one, but we believe that a structured comparison of both evolutions provides valuable insights into not only the assumptions and driving forces in each system, but also their limitations and possible pathways for innovation.

Social participation in spatial planning

In the context of centrally planned Polish economy, plans of the highest order in regards to spatial planning were, by principle, considered superior. This, in fact, meant that regulations put in place by plans of the higher order (e.g. the national plan), were obligatorily transferred as binding to the plans of lower order (e.g. voivodeship master plans and local master plans). This principle mirrored general government principles characteristic for countries with socialist political systems. In practice, the planning system did not always work like that, with different institutes, ministries, and government-run industries, competing against each other for scarce resources, and often overriding any plan, but in this competition, what we would call social participation, or citizen participation, did rarely occur [Andrusz et al 1996, French 1995, Van Assche et al 2009]. The power of individual citizens over planning decision was extremely limited. Power by representation was supposed to be embodied in the communist state structure, and power by direct participation was not deemed necessary – since the party and its scientific planners already know what people want and what is good for them.

The year 1989, which was the first stage of political transformations, marks the abolishment of the superiority principle in spatial planning. The system of spatial planning has been reshaped in such a way as to enable rank-and-file initiatives with respect to spatial planning and development. This can be illustrated by the process of local spatial planning, within which communes in the first place draw up documents called studies of determinants and directions of spatial development; and only after their execution they can establish a local master plan (which has been mentioned in the first part of this paper). A study of determinants and directions of spatial development makes it possible for local self-government bodies to present their concept of spatial planning for the area they administer.

The other significant element of this decentralisation is the direct participation of the public in the process of spatial planning in Poland. This can be observed at various points: when the local master plan is being prepared and passed by the community council; as well as in administrative procedures followed by decisions on environmental conditions of investment realisation or decisions about building provisions and land management. Moreover, ecological organisations which, referring to their statutory purpose, wish to take part in a particular procedure which requires public participation, can act as a party in it.

In the US, local participation in planning is framed differently from the start, since there is hardly a legacy of a comprehensive planning system where citizens have to fight themselves in to get more influence over their surroundings. By and large, American citizens had more influence over the spatial organization of their cities and neighborhoods than citizens of European countries. Because of the ideology of strong private property rights and all-powerful market forces, it was assumed that property owners could do what they wanted, and that the absence of certain types of spatial organization or design signified the absence of a market, and therefore the absence of demand. In other words: in the traditional American neo-liberal perspective, citizen participation in planning is individual participation in local government and in the real estate market [Van Assche, Leinfelder 2008].

This does not mean that individual preferences are always dominant in the practice of spatial organization. More dominant than anything are market forces, more specifically larger companies –developers, retailers, industrialists. If larger economic players decide to invest somewhere, individual owners and local governments have a tough job to stop them from doing whatever they want, partly because of the ideology of individualism and localism mentioned earlier [Jacobs 1998, Platt 2003, Elliott 2008]. If Wal-Mart comes to a smaller city, the chances that their ordinances and plans would in submission. Even if a small city is very strong on planning, and adopted a comprehensive be respected, are very small; even the threat of legal action might be enough to bring the locals plan with a strong shared vision, the wild world of the US market hardly pays attention to that, and state governments are usually not even allowed to interfere in the process.

Market forces limit the power of citizens in a different way: by reducing their options. Since developing is cheaper by the dozen, and larger developments are costly, few people build their own house. Rather, they buy from developers that flood the market with generic architecture in bland neighborhoods, barely embedded in the landscape, barely paying attention to cultural history or ecology. Homes and neighborhoods with a unique character and a planned consistency are hard to find in the US, largely because of the untamed market forces, driving developers to minimize cost, to avoid risk, to choose for generic designs that are cheap, quick, and probably at least acceptable for most Americans. After a while, citizens have a limited frame of reference, are not aware anymore of different ways to organize space.

What Americans call ‘grass roots’ movements are largely local responses to untamed markets and weak local governments [Sies, Silver 1996], lacking green and/or social policies that could improve quality of life in many neighborhoods. Citizen participation in America thus acquired a different dimension: (very) local self-organization, to solve local problems, and often advocacy with local government to devise policies and plans that target their perceived prob-

lem. The sum of all these one-shot initiatives is very rarely an improvement of the planning system in the city, an improved comprehensive plan, a better enforcement, the design of more inclusive procedures for planning. All these desirable outcomes of citizen participation remain very rare, partly because the people complaining share the same anti-government and anti-planning ideology as most local politicians.

Independence of communes with respect to planning

The new Polish system of spatial planning is primarily characterised by the decentralisation of activities within spatial planning and independence of communes with respect to planning policies. With the change in the Polish political system and functional decentralisation of the state, municipal self-governments have become fundamental elements of public administration. In the light of the Act on Local Self-Government of 8 March 1990, communes have acquired a legal status; they can, for example, perform public tasks in their own name and at their own responsibility, manage their own budget as well as decide about their economic and spatial development [Ustawa 1990]. Thus, a commune has been provided with a range of public and legal competences, including tasks related to spatial planning. They are expressed by the obligation of local self-governments to draw up and pass studies of determinants and directions of spatial development as well as local master plans [Piech 1993].

In the US, as explained earlier, local government was the main pillar of government from the start [Platt 2003]. The Federal government was very weak for most of US history; it was only in the 1930's, with the New Deal, that the Federal government gained real powers over the daily lives of many citizens, including influence on spatial organization – through social housing programs, later environmental programs, urban redevelopment schemes [Elliott 2008, Scott 1998]. States each have their own constitution, their own parliament, their own bodies of legislation. Local governments are enabled by the state to get involved in almost anything, if they wish to, as long as private property rights, and state and federal laws are not infringed upon. This however does not explain much of local planning practice; within the same state, cities pick very selectively the tasks they want to perform, the responsibilities they have to take on [Merriam 2004]. Such implies that the level of services will vary widely; it means that cities, townships, counties can almost look like different countries for a foreign observer, because of the large powers of local communities to define themselves. In most European countries, including Poland, decentralization is limited because the obligations of local governments are extensive, and very similar in different parts of the countries. In the US, a township can decide not to have a comprehensive plan, not to have zoning, not to have high water quality standards, an erosion plan, and so forth. In many rural areas, the few state and fed-

eral laws that would apply – like not building on a shoreline – are defiantly non-enforced; the government is the enemy [Van Assche 2008].

Such an extreme decentralization has its problems, as can be grasped easily from this example. It tends to encourage closed communities, internally repressive and externally hostile. It tends to minimize the expertise in local government, and to minimize the impact of expertise present at higher levels of government. In addition, it tends to ignore the simple fact that cooperation (including planning) can be better for the local community in the longer run, and that many problems created or not addressed locally now, will have to be addressed by the next generation, or by people elsewhere, often downstream. In other words, excessive localism tends to ignore the power of planning, and it does not lend itself easily to sustainable governance [Platt 2003, Allmendinger 2002].

Protection of property rights

Changes that have taken place in Poland after political transformations with respect to protection of property rights were expressed in very important provisions introduced in the beginning (in 1989) into the so-called Small Constitution, and subsequently into the currently binding Constitution of the Republic of Poland [Ustawa 1997a]. The provisions dealt with three fundamental questions. First of these is a declaration that the state protects property, both private property and property in other forms. This provision meant equal rights for three types of subjects that could be property owners: citizens, communes and the state. The second question concerned expropriation possibilities. The provisions of the Constitution in this respect state that expropriation can take place only for strictly defined public purposes. These purposes have been determined in the Act on Property Management [Ustawa 1997b]. The third question concerns compensation for expropriated property. The Constitution declares that just compensation shall be paid out in the case of expropriation. This means that the compensation needs to correspond to the market value of the property in question.

Therefore, Poland has acknowledged property rights of its citizens and this right is considered equal with other property rights, e.g., that of the state or communes. This is particularly important since before the political transformations, owners of individual private farms had been subject to a number of restrictions. These used to have a subjective and objective character. Subjective restrictions concerned the obligation to possess agricultural qualifications in the case of purchase of agricultural land. Objective restrictions referred to the maximum space area of an agricultural farm which was not subject to expropriation by the state for the purposes of agricultural reform. If the maximum space

area was exceeded, the surplus could have been taken over by the state. [Ustawa 1963, Sztyk 2002].

Spatial planning and development is characterised by the existence of equal partners: property owners, that is citizens, communes, and the state, while the role of spatial planning is to resolve possible conflicts between these subjects. That, at least, is the ideal situation. In reality, such a balance is very hard to strike, and the exact role of planning and of local governments and individual rights can be conceived in many ways [Sietze, Silver 1996, Van Assche, Leinfelder 2008]. Property rights arrangements can be devised in many ways, and correspondingly, the options that are open for planning [Jacobs 1998]. If property rights are close to absolute, as many American Republicans would claim, then planning in America would be unconstitutional. Some parties reading the constitution very literally, come to this conclusion, but within the same constitution, one can also find plenty of references to legitimate state powers and policies to work towards common good [Beatly 1994].

It was mentioned that property rights are essentially bundles of use rights and obligations. Ironically, property registration in the US is complex, and ownership can only be established by documents listing the series of owners since settlement [Jacobs 1998]. Gaps in the series create risk of litigation. Ownership means receiving the bundle of use rights from a guy who received it from…etc, until one meets the time of settlement, equal to government ownership. The document that creates the position of ownership, is called 'title', and has to contain that series of transactions (the 'asbtract'). Specialized firms look through the records to make sure abstract and title are complete. So, even if the use rights equivalent to 'property' are extensive in the US, establishing ownership is complicated.

In the course of US history, property rights have been shifting all the time. As said, there are no absolute property rights; property rights are continuously redefined in shifting cultural, political and legal landscapes. Quite recently, Americans could own slaves, and even more recently, men could own their wives and children. Environmental concerns emerged in the 1960's, and led to a drastic redefinition of property rights in many places and in many ways [Beatly 1994, Jacobs 1998, Randolph 2003]. Southern slave owners went to court referring to their infringed property rights, and developers and farmers dismissing environmental concerns did the same – this is my land and I do whatever I want. To understand American planning, it is important to understand the persistent ideology of absolute and universal property rights, in the face of all contradictory evidence. This persistent belief that the individual has absolute freedom in his own domain, and that society is a sum of individuals, continues to shape the mentality of many Americans, and it continues to create problems for spatial planning at any level.

Obligation to introduce new environment protection instruments into the process of spatial planning and development

Environmental protection instruments are a new solution to older problems, a solution introduced into the system of spatial planning in Poland after the political transformations in 1989. These instruments need to be observed at all levels of the planning and investment process. These concern, in particular, new legal regulations introducing the obligation to develop two types of studies devoted to environment protection. Firstly, the prognosis on the results of passing (or changing) local spatial management plans (executed at all spatial planning levels). This prognosis defines, analyses and evaluates a wide scope of issues in regards to environment protection. Its conclusion presents solutions aiming at the prevention, limitation or environmental compensation of negative impacts on nature. The other instrument of environment protection, existing within the widely-understood investment process, is the evaluation of environmental impact of investments dangerous for the environment. There are two categories of investments that undergo such an evaluation: investments that can always and permanently influence the environment and investments that can potentially and significantly influence the environment.

It is necessary to point out that this is a new solution since until 1989 studies of this type had not been developed. Legal basis for these activities was the Act on Spatial Development of 1994 [Ustawa 1994] and currently the Act on Planning and Spatial Development [Ustawa 2003] and the Law on Environment Protection [Ustawa 2001].

The instrument of Environmental Impact Studies originated in the US in the 70's, and was taken up by many European countries in the 1980's [Randolph 2003]. In general, one can say that US Federal environmental legislation set the tone for much of the developed world. The clean water act, clean air act, wetland act, and others, inspired legislation in many other countries, and the same can be said for the institution of the environmental protection agency (EPA) and the pollution control agency (PCA). There are the influential Soil and Water Conservation Districts (SWCD), branches of federal institutions places at the county level.

Overall, the political support for environmental protection is much larger than for spatial planning [Jacobs 1998]. Federal governments over several generations showed strong leadership by recognizing the problems, and proposing strong laws and institutions to solve them [Sies, Silver 1996, Elliott 2008]. Legally, environmental protection is stronger than spatial planning, in the sense that by nature, environmental protection has more direct causal links to acceptable government goals of furthering health, safety and well-being of the citizens [Elliott 2008]. For local spatial planning, this makes environmental legislation into a powerful ally: plans are more likely to be adopted and enforced if they appeal profusively to environmental law and its goals.

Even so, the actual integration of these federal laws into state law, county and city ordinance is very uneven in the US, and the same can be said about enforcement. Some states vehemently oppose federal environmental legislation, but once adopted, do enforce it, while other states seem to acquiesce in the legislative process, but in practice don't even try to integrate the new rules, let alone apply them. The same principles can be observed at the lower levels of government: some cities and counties cooperate, others don't, and some of the apparent cooperation is deceiving.

CONCLUSION

Concluding the considerations above, we can state that the decentralisation of public administration, the appointment of self-governing local public bodies, and the growing importance of local spatial planning were the fundamental achievements of the Polish political transformation, as far as spatial management is concerned.

In particular, the system of spatial planning has been adjusted to the democratic political system. Local spatial planning plays an especially important role here, as its task is to formulate the principles of spatial policies as well as establish the purpose and principles of land development and management.

The process of spatial planning has been brought to the public thanks to the abolition of higher order superiority principles and the endowment of local self-governments with the right to decide about spatial planning on most issues. Moreover, the public has been introduced into the process of spatial planning and development, in different versions of participatory planning, and, at a more fundamental level, by adopting a capitalist-style property rights arrangement

In our brief overview of the Polish planning transition, and our point-by-point comparison with the scattered American planning system, some patterns emerge. The American planning experience is a history of disappointed planners, and a history of persistent ideologies. People prefer to *believe* in a simple and absolute concept of property rights, of freedom, of democracy as local self-governance, of the rule as law as the only necessary remedy against rampant self-interest. Insofar as planning entails a collective vision for a shared future, not just a protection of individual rights and values, *any new rule promoting planning will be thwarted, undermined and perverted.* Planning that creates added value, that entails spatial design and targeted development, can never result from laws alone; it requires the interaction of law, politics, individual citizens and market actors. Rules alone do not produce shared visions [North 2005, Kornai 1980].

The American experience also shows that excessive emphasis on individualism rights and freedoms does not necessarily generate morer *real individual choice* in a market-place that is weakly regulated, and where large actors largely

define supply. An excessive emphasis on local government aggravates that trend, since small and underfunded units of government with large freedoms and responsibilities are a risk for individuals and for society as a whole. These locally powerful governmnents are in turn powerless against big business, because, again, of lack of resources, expertise, connections, especially lack of good lawyers. An excessive emphasis on local government and absolute property rights, an extreme distrust of 'big government' therefore tends to be self-defeating: it undermines de facto individual freedom and property rights in the long run, as well as the cherished local independence.

The Polish experience can show planners that change is possible, that a reinvention of economic, political and legal systems can take place simultaneously, allowing for new types of coordination, allowing for a reinvention of spatial planning. It has to be noted however that the considerable powers of the State were utilized well in Poland to reinvention itself, in many ways to shrink itself. In the US, these powers have to be taken, and the resistance of citizens against government, or against 'taxes' – often without thinking what they are used for – is remarkable from a European perspective. Without trust in government, collective action at higher levels is impossible or ineffective, and many shared goals do require collective action [North 2005, Ledeneva 2006].

The Polish experience also demonstrates that collective action has its limitations. Like any other post-socialist country, the awareness of planning problems is high. Many people do remember the inefficiencies of communist central planning, and the difference between planning rhetoric and reality [French 1995, Andrusz et al 1996]. Planning for many people in Central and Eastern Europe has a suspicious ring; for many, it has strong associations with lack of freedom, mediocre economic development, and false governmental promises [Kornai 1980]. Deciding everything centrally does not work, as generations of economists have argued. On the other hand, unregulated market forces, and powerless governments do not allow to capitalize on assets, to grasp opportunities, to build the kind of society we want.

Both the American and the Polish examples show unequivocally how planning is and has to be embedded in culture, in legal, political, economic institutions, to work as a site of coordination between different policies, different actors, different desires [Van Assche 2008, Van Assche, Leinfelder 2008, Van Assche et al 2009]. That means, among other things, that planning instruments cannot be copied into a different institutional context, without analyzing carefully the original context, the assumptions, the factors that make it successful and the factors that define success in the place of origin. The American New Urbanists and TOD-designers were charmed by European cities and their varied, pedestrian-friendly mixed use neighbourhood [Duany, Plater-Zyberk 1990], but failed to intuit that these neighbourhood and transportation systems emerged

from a European history, European tastes, from different accepted roles of government and different property rights arrangements. In the other directions, it would be unfortunate to be too enamored with American planning tools that do not work in most of America (smart growth), or with trends that present themselves as new (New Urbanism), without realizing that many Polish places come closer to the New Urbanism ideals than what we find in the States. As it would be unfortunate to overlook the limitations of legalism, localism and individualism.

In systems theoretical terms, one can say that planning can only work if it is an appropriate form of coordination between various social systems (law, economics, politics, education, religion...) and if these systems in turn are sufficiently *differentiated:* it is only when market, politics, law, religion, science are sufficiently *different and independent* in the production of their perspectives on the world, that the interplay between these social systems can produce a space that accommodates the needs, desires and opportunities in society [Van Assche, Verschraegen 2008]. Planning can only work when science is not forced to think economically or politically, when politics is not dominated by economics – like in the US, when law is not controlled by politics – like in communist Poland, and so forth [Ruble 1995]. It is only then that property rights arrangements and planning forms can emerge that fit the institutions they apply to, and that the productivity of the difference between the perspectives embodied in the social systems, can be capitalized upon. Politics and economics need to be different, and they need an opportunity and a place to clash, the same applies to law and economics, science and law, and so forth. Planning can creates meeting places for these different perspectives, and in the clashes, the best possible spatial strategies can crystallize. 'Disunity is a small price to pay for republican virtue' (Macchiavelli).

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