

SUMMARY

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"Spatial Planning in Austria with References to Spatial Development and Regional Policy"

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Generally, **spatial planning** refers to the entirety of measures and activities of public authorities used to shape the **development of a territory** based on political goals.

Spatial planning in Austria features a **complex and highly differentiated planning system** considering the relatively small territory of the country and the size of the population. The foundation for the distribution of areas of competence for planning was established by the Constitution of the First Republic and the amendments to it of 1925 that distributed the areas of competence in detail among the federal government, Länder and municipalities.

The federal government is responsible for legislation and for execution of all administrative matters assigned to it by the Federal Constitutional Act (B-VG). Competence for legislation and implementation is shared by the federal government and the Länder in some sectoral matters, although most public administration tasks being the remit of the Länder due to a general clause.

Pursuant to a decision by the Constitutional Court of 1954, spatial planning is not a matter belonging to a specific sphere of administration, but rather a matter that concerns many sectors (Querschnittsmaterie). The different authorities at the federal, Land and municipal level have planning remits. This legal situation regarding the distribution of areas of competence has characterised spatial planning in Austria ever since.

Different sectors have different **sectoral planning (Fachplanung)** both at the federal and Land levels. In accordance with applicable laws, the federal ministries and the respective offices of the Land governments – in Vienna, the city administration (Magistrat der Stadt Wien) – have the possibility of drafting forward-looking plans and are responsible for approval procedures by the authorities. Resolutions on such sectoral plans are adopted at the federal level by the

federal government or ministries, and at the Land level by the collective body of the Land government. Key sectoral plans exist under water laws and forestry laws as well as for infrastructure (roads, railways, electricity grids, etc.).

There is no federal law for spatial planning, and therefore, no framework legislation at the federal level. Instead, the **Austrian Conference on Spatial Planning (ÖROK)** was set up as a coordinating body, with the federal chancellor acting as chairperson (this function as a chairperson may be delegated to the competent minister) and including representatives of the federal government and the Land governments as well as interest group representatives, especially, the associations of towns and municipalities. The **Austrian Spatial Development Concept (ÖREK)**, which is prepared every ten years by the ÖROK, and the **ÖROK recommendations** for the different priority areas serve as recommendations for planning bodies.

Legislation in the area of spatial planning is the remit of the individual Länder. The Länder have passed their own planning laws which contain objectives and instruments for firstly, **regional spatial planning (überörtliche Raumplanung)**, and secondly, **local spatial planning (örtliche Raumplanung)** by the municipalities. In accordance with the legality principle, planning bodies are only permitted to act on the basis of an authorisation granted by law.

Generally, planning acts may be differentiated on the basis of the spatial planning laws (**nominal planning**), and in a wider sense, on the holistic coordination of planning with a territorial impact (**functional planning**).

Nominal spatial planning is effective primarily through **sovereign acts relating to planning** and the corresponding generally valid regulations passed. As a supplement there are **conceptual planning instruments** that are non-binding. Spatial planning laws now give planning bodies also the possibility of entering into private law contracts with property owners in order to be able to achieve certain planning objectives (**spatial planning contract**).

Planning bodies cannot define content arbitrarily, but must base their decisions on well-founded reasons. All planning decisions may be argued with a view to the **objectives and principles** defined by law referring to **basic research** which investigates the general spatial, cultural, economic, social and ecological conditions. Such objectives and principles may include, for example, the attainment of a balance in living conditions, careful stewardship of resources, protection of valuable nature and landscapes as well as economic development and the conservation of usable space for farming. Planning bodies have room for discretion here within which they may evaluate the different objectives using the findings from basic research to arrive at qualified and well-founded decisions.

The planning instruments at the disposal of planning bodies in this context differ with respect to the regional and the local level. The Land parliaments may adopt spatial planning and development programmes for parts or the entire territory of a Land. The usually define the further development of building land. The sectoral programmes may define priority themes (e.g. wind farms, skiing areas, etc.) and quality/quantity development criteria. The Land governments may also adopt schemes which are recommendations in nature and are not mandatory for municipalities. In some Länder there are additional **regional planning levels** that permit conceptual or binding plans to be adopted.

Municipalities are a central planning level and are responsible for local spatial planning. The municipalities are responsible for the concrete land use plans at the level of the plots of land. Most Länder define the framework for strategic **local development concepts** (**örtliches Entwicklungskonzept**). The municipalities define their own objectives and spatial planning priorities within these concepts for the next ten to twenty years. The actual planning of permissible land uses is done through **zoning plans** (**Flächenwidmungspläne**). These make it possible for property owners and authorised users to use the land for certain building purposes in accordance with the zoning category. The instrument of **land development plans** (**Bebauungsplan**) is used to define how land may be built up and used, and also for determining areas for transport routes. These plans contain concrete statements on what is permitted to be built on specific plots of land.

Procedures in spatial planning are subject to the procedural rules laid down in the spatial planning laws. Thus, a strategic environmental assessment must be conducted for planning regulations – and amend-

ments thereto – if major effects on the environment are to be expected. The supervisory authority for planning regulations of municipalities is the **Office of the Land Government**. Planning acts must be made available for inspection and for statements of opinion, and must be approved by the supervisory authority after they are adopted and this fact must be made public for the planning acts to take legal effect.

Spatial planning in Austria is therefore a fragmented field as regards the distribution of areas of competence, but at the same time, it features a highly hierarchical structure. Therefore, a central challenge is achieving the coordination of the different planning activities of the federal government, the Länder and the municipalities. As the formal mechanisms are not always sufficient and the practice of involving civil society is gaining ground, cooperative and informal planning processes are becoming more important. In this context, **innovative and cooperative solutions** are being developed to supplement sovereign regulatory planning.

The trend towards development-oriented planning processes in spatial planning is encouraging the smooth transition between **spatial development** and **regional policy development processes**.

The term **regional policy** is not defined by law in Austria. However, in practice a cooperative system has evolved which is characterised by coordination and cooperation in the policy fields and among the territorial authorities.

EU cohesion and agricultural policy instruments have made it possible as of the mid-1990s to substantially increase funding dedicated to regional policy and to significantly raise the standing of the Länder as regional policy actors. This also supported the roll-out in Austria of regional policy approaches for entire regions.

Therefore, regional policy today is only to a very limited extent classical in the meaning of taking measures to counteract trends in structurally disadvantaged regions. The main focus is rather on providing financial assistance for the development of entire regions. With the support of development organisations, a (regional) policy mix is now used to mobilise potentials and to counteract problematic issues.

At the national level there is a comprehensive set of strategies that serve as guidance. The Austrian Spatial Development Concept (ÖREK) contains explicit

spatial components. Today, the Länder have a broad architecture for **spatial, sectoral and economic development strategies**. As regards the institutions, there are a number of regional development agencies in the Länder that support the implementation of current strategies in the field of regional planning. In all Länder, there are regional development organisations that are established either at the Land level and have a mobilisation effect in the regions or have been set up on the basis of regional development associations (so-called regional management organisations).

The **European level** functions as a source of **orientation and guidance** (e.g. Territorial Agenda), but also has a direct effect on regional policy in Austria with respect to (i) statutory requirements (e.g. in EU competition and state aid law) and (ii) the European Structural and Investment Funds that are implemented using the system shared funds management between the EU and the member states. The funds and programmes define the priorities in Austria in the different types of areas (rural regions, spaces with potential, urban regions, cross-border and transnational regions) and complement each other in this manner.

The Austrian approach to regional policy which is traditionally based on **cooperation** and **coordination** also creates a number of challenges. Among other things, mention must be made of effective and efficient communication and coordination processes

in the multi-level system and the feat of overcoming borders, especially within Austria (between the Länder and between cities and their catchment areas). As the focus of the European Funds is shifting increasingly to sectoral investment strategies entailing more and more demanding administrative requirements, a decline in innovation capacity of the cohesion policy programmes is emerging. Therefore, the national regional policy actors are being called on to present innovative concepts and programmes.

Overall, the trend in **spatial planning** in Austria is moving towards **more regulation** and greater **differentiation**. In practice this also means that execution and application will become more difficult and that expert knowledge is of enormous importance. At the same time, the increasing digitisation of the planning materials such as planning acts is making it possible to make these available in a transparent form to the broad public. Moreover, the procedures for regulations have been migrated to web-based systems (e.g. electronic zoning plan).

The **challenges** for the future development of spatial development result from the many different trends and tendencies. Regional disparities, global competition, population growth, demographic change, climate change, loss of farming land, etc. cannot be solved alone by sovereign planning instruments. Therefore, the significance of governance-based informal planning processes as a supplement to the instruments of spatial planning is growing.