INTRODUCTION TO THE AUSTRIAN SPATIAL PLANNING SYSTEM

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1. Introduction

The governmental structure of Austria consists of a state government, nine federal state (*Bundesländer*) governments, and more than 2,000 municipalities. Spatial planning in Austria is a federal state-driven activity, based on spatial planning laws that are similar between provinces but may differ considerably in detail. The hierarchical, top-down system normally consists of

- state development strategies (*Landesraumordnungsprogramm*),
- regional plans (*Regionales Raumordnungsprogramm*) and
- sectoral plans (*Raumordnungsprogramme für Sachbereiche*) both on federal state and regional level.
- Local development strategies (*örtliches Entwicklungskonzept*),
- prepatory land-use plans (*Flächenwidmungsplan*) and
- building schemes (*Bebauungsplan*) are at the municipal level.

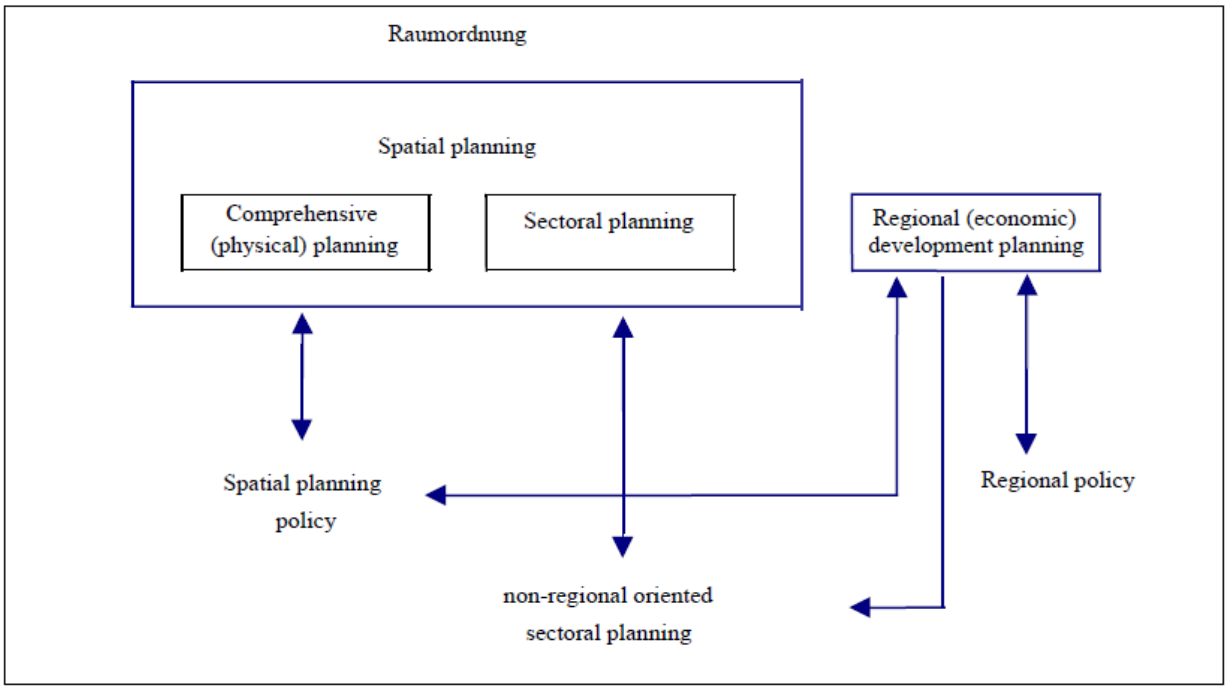

Figure 1: System of spatial planning and concepts of regional development in Austria (Fassmann (2018), S. 2311)

According to the Austrian constitution, municipalities undertake their own local spatial planning within the legal framework, but they are controlled as local spatial plans have to be approved by the respective state government. Decision makers are elected politicians, supported either by freelance planners or planners employed in administrations, or both, depending on the size of the municipality.

According to the regulatory framework, spatial planning is directed by planning objectives which cover all issues of spatial development including environmental and open space protection, economic development, social and cultural issues, and infrastructure development. These planning objectives define the public interest in spatial development. Public and private interests are to be balanced, with public interests being given priority. In this way, the planning laws address the built and unbuilt environment mainly through the control and siting of building activities via the different levels of plans. Some of the planning objectives might differ in focus and may be conflicting. Such conflicts of objectives have to be resolved in

a concrete planning decision, which means that in an actual spatial context one or several planning objectives are prioritised over others so that certain land uses are assigned: for instance, if environmental protection is ranked highest in certain areas open space is defined, or if economic development is prioritised in other areas industrial and commercial zones are designated.

All planning decisions have to arguably weight the planning goals. This weighting has to be grounded on baseline surveys, and has to be accompanied by the detailing of planning objectives, the formulation of planning measures, and an appraisal of the spatial impacts of a potential planning decision. The planning processes guarantee information and consultation rights for the public and allow stakeholders who might be impacted by a planning decision to protect their individual rights, including appeals against a plan.

2. Regional development plans

To implement long-term planning policies and related spatial planning aims into practice, multiple measures and instruments on different administrative levels are possible. Two major principles to avoid an increasing risk potential exist, the avoidance to extend development land into areas affected by natural hazards, and the prescription of certain building regulations and structural measures, such as local structural protection. Thereby, spatial planning activities are not able to lower existing values exposed in already built-up areas. In contrast, by limiting re-zoning at local governmental level, constructional development activities of plots located in endangered areas are adjusted in order to not increase values at risk exposed considerably. These mandatory restrictions in development on the local level are part of a hierarchical multi-stepped system within the regional planning and land use planning legislation as well as in the building laws at the state level and below in the municipalities. The regional development plan is therefore an appropriate tool to prescribe in a top-down approach certain regulations to individual municipalities on the local level. Hence, a minimum requirement is the depiction of hazard zones in these plans, whereas the level of detail varies considerably between individual Federal States in Austria.

However, the local administrative opportunity for judgement might be considerable, above all with respect to possible exceptions applicable to guarantee the economic development of a certain region. The extent of consequences arising from natural hazard processes is directly influenced by the legal execution in the respective community or region.

The historical shift of a traditionally agricultural society to a service and industry-oriented society is mirrored by socioeconomic development in mountain environments and foreland regions. This shift is reflected by an increasing use of those areas for settlement, industry, and recreation. Due to an increasing concentration of tangible and intangible assets and to an increasing number of persons exposed to natural processes, there is an emerging need for the consideration of risk in land use development. Long-term analyses of risk evaluating these changes provided a general idea about the development of assets in endangered areas. Regarding the long-term development in values at risk, a significant increase could be proven for the period since 1950 for example in the Alps.

This development strengthens the need for due diligence processes in spatial planning and land development, above all with respect to building regulations to be increasingly implemented in planning processes on the local level. Even if the consideration of natural hazard processes is already implemented in the planning procedure on different administrative levels under the responsibility of multiple authorities, there is a particular need to enact the mandatory authorisation of planned constructions in areas influenced by especially heavy rain risk. The designation of development land requires the general adequacy of the plots for the intended use; consequently, building bans should be enacted for those areas that are due to their natural conditions not suitable for such purpose.

However, such building bans are rarely implemented in practice. Moreover, the legally prescription of protection in areas less endangered by pluvial flood processes also seems to be not very successful in

practice. Examples include in particular situations when the planned constructions intend not to increase the values at risk considerably, or if the developed land will not be extended into areas with a significantly increased hazard potential. Corresponding regulations can be found in the Federal States of Upper Austria, Styria and Tyrol.

Considering different mass movement processes and their impacts on the built environment, multiple solutions for the protection of new buildings and the upgrade of existing inventory exist. Recent studies related to flood hazards in Austria suggested a considerable decrease in vulnerability, if local structural protection is implemented. However, until now risk-minimising effects of local structural measures have only rarely been quantified so far, presumably since mandatory legal regulations are almost missing therefore. Only the Federal State of Vorarlberg explicitly addresses the possibility to prescribe legal requirements for local structural measures, if economically reasonable and technically feasible, in the respective land use planning act.

3. New Developments

Land use planning activities such as flood risk maps are based on the concept of recurrence intervals of hazard processes. Since the heavy rain risk potential and thus the delimitation of hazard zones is subject to temporal changes, the resulting coping strategies in order to minimise risk have to be variable.

From the point of view of spatial planning dealing with such changes is of particular difficulty since the required stability of the law restricts short-term modifications in land use planning regulations to a minimum. In particular building bans and re-zoning of already permitted land development activities remain an unsolved task since once enacted and approved by the regulatory authority additional prescriptions or prohibitions could hardly be accomplished. Hence, the overlap between hazard areas and areas used for settlement purpose and economic activities increasingly provokes conflicts of interest that need to be addressed in natural hazard management.

Nevertheless, obligation resulting in usage limitations and prohibitions executed during the individual construction process is inevitable, in particular with respect to the prescription of local structural protection. Ongoing inspections by the respective authorities, associated certification and final approval of work should be legally prescribed.

Furthermore, the increased consideration of risk maps already during the constructing permit procedures as well as the mandatory involvement of the respective authority during the entire process seems promising with respect to create more disaster-resilient communities.

Apart from the cost-efficiency, local structural protection is a serious and promising approach in mitigating natural hazards with respect to legal requirements in accordance with local planning regulations.

This is of particular relevance considering the fact that building regulations other than local structural measures are hardly to be implemented ex post. Due to the overall principle of reliance on legal acts, planning decisions affirmed in the past have to be persistent over a certain period in time.

With respect to natural hazard management – including heavy rain management -, legal regulations related to land use decisions are accompanied by the principle of governmental loss compensation in Austria.

4. References

Fassmann, H. (2018): Stadt- und Regionalentwicklung Österreich. In: Akademie für Raumforschung und Landesplanung (Hrsg.): Handwörterbuch der Stadt- und Raumentwicklung, S. 2309-2315. Hannover 2018.

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