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NEW SPATIAL DEVELOPMENT RULES IN POLAND

Abstract: Spatial development involves planning, organizing, and managing physical spaces in cities, regions, or countries, aiming to optimize efficiency, sustainability, and quality of life through land arrangement, resource allocation, and infrastructure management. This study examines spatial management in Poland, guided by the 2003 law on spatial planning and development, exploring its hierarchical structure ensuring spatial order and policy implementation. Recent legislative amendments on July 2023, are scrutinized, impacting spatial planning by emphasizing public participation and introducing tools like the municipal general plan and Urban Register. The study delves into the evolving process of issuing WZ Decisions and integrating public consultations. It assesses amendments' effects on stakeholder involvement and legal framework changes in practice. Public participation principles are analyzed, detailing stakeholder roles, engagement nature, and legal mechanisms in spatial planning processes. Furthermore, the study investigates the introduction of the general municipal plan, zoning categorization, and the new WZ Decisions' compliance procedure. The creation of the Urban Register is discussed, highlighting its functionalities and intended role as a comprehensive spatial planning and development information source. In summary, this study offers a comprehensive analysis of recent legislative changes in Poland's spatial planning and development, focusing on practical implications and the evolving landscape of public participation and spatial governance within the country.

Keywords: spatial development, public participation, municipal general plan, Urban Register

Received: 28 November 2023; accepted: 27 December 2023

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Introduction

Spatial development refers to the planning, organization, and management of physical spaces within a particular area, whether it's a city, region, or country. It encompasses the arrangement, distribution, and utilization of land, resources, infrastructure, and human activities in a way that optimizes efficiency, sustainability, and quality of life. Spatial development can be defined as structured activities aimed at the efficient use of space, reconciling the interests of the various users of space and pursuing social and economic objectives (Brzeziński, 2013, p. 106). Spatial management – i.e. the implementation of spatial policy – takes place in Poland at the municipal level in accordance with the 27 March 2003 Law on spatial planning and development (Uniform text, Journal of Acts of the Republic of Poland 2023, item 977 as amended). It directs the allocation of land for specific purposes and establishes the rules for their development and use. A hierarchy in spatial development, related to the hierarchy of power, is present in Poland. The coherence of this system is intended to guarantee spatial order and the implementation of fundamental spatial policy objectives. Decisions taken at each level must support the decisions of the superior one, which also have priority for implementation. However, it is important to cooperate horizontally, i.e. between units with the same level of planning authority and competence. A lack of cooperation can result in the opposite – i.e. apparent spatial order or chaos.

At the national level, the tasks of the government administration include, among others: developing government strategic documents defining the basic goals of social and economic development, developing the Concept of National Spatial Management (current until 2030)¹, and preparing and analyzing periodic reports on the state of national spatial management. The tasks of government administration at the provincial level include conducting analyses and studies, developing concepts and programs relating to areas and problems of spatial development in accordance with the needs and objectives of the work undertaken in this regard; conducting periodic reviews of changes in spatial development and preparing periodic reports on the state of spatial development in the province; implementing the province's spatial policy and drawing up a strategy for the development of the province. Spatial planning at the local level is related to the creation and enforcement of documents such as the study of the conditions and directions of spatial development of the municipality and the local spatial development plan. The former is the basis for the creation of the latter. Decisions on development conditions ("WZ Decisions") played an important role for investors.

Material and methods

On 24 July 2023 the President of the Republic of Poland signed the Amendments to the Law on Planning and Spatial Development and Certain Other Laws of 26 March 2023 (the "Act"). Therefore, this is one of the largest amendments to the laws governing planning and spatial development. Spatial development requires interdisciplinary collaboration involving urban planners, architects, economists, environmentalists, policymakers, and community members. It aims to create sustainable, inclusive, and

well-functioning spaces that cater to the needs of present and future generations while considering environmental, social, and economic factors. Therefore, the 2023 spatial planning reform envisages changes in terms of increasing public influence on spatial planning decisions – new forms of public consultation, as well as the introduction of a new planning tool – the municipality's general plan. The findings of the general plan will be binding at both the stage of drawing up local plans and issuing zoning decisions. The amendment also introduces a new form of local plan – an integrated investment plan. An Urban Register will also be introduced.

In view of the changes in the legislation concerning the introduction of a simplified procedure for the enactment of spatial planning acts and the repeal of the regulations on the study of the conditions and directions of spatial development of municipalities, the subject of the analysis is covered by the statutory provisions and includes both an analysis of the provisions of the spatial development law and an analysis of various other legal provisions to be taken into account in order to determine the analyzed provisions, in addition, the analysis includes an evaluation of the planned legal solutions. The main research method used for the relevant conclusions will be the analysis of literature and legal acts.

Principles of public participation

The planning and zoning reform in question was designed to implement the commitments of the Republic of Poland in the National Plan for Reconstruction and Increasing Resilience. The entry into force of the law is a milestone in the reform, which, among other things: will define the process by which stakeholders can participate in the development of strategies and master plans in municipalities. In the provisions introduced in the law, Chapter 1a defines the rights of stakeholders to be informed about the process of preparing planning acts and opportunities to participate in these processes (Okolski, 2024). The explanatory memorandum of the draft explains that, along with the changes to the procedure, it was proposed to separate the provisions on public participation as a separate chapter, with the aim of raising the standards for conducting discussions with residents, organizing, expanding and opening up the catalog of possible participation tools to include new techniques, including those related to digitization, and modernizing the vocabulary used in accordance with the development of this field of knowledge. The effect of the changes, declared by the drafters, is to facilitate the development of compromises in spatial management that are accepted by at least the majority of stakeholders in the process. According to the authors of the amendment, this will also increase investment certainty, as conflicting positions and interests will be disclosed already in the consultation procedure, and not only at the stage of proceeding with investment.

Social participation is an ambiguous concept with no uniform definition, as it occurs at the intersection of various sciences (Daniel et al., 2023). Various methods are used to facilitate public participation, including public meetings, surveys, focus groups, citizen advisory committees, online forums, and participatory workshops. The level and extent

of public participation can vary depending on the context, the issues at hand, and the willingness of decision-makers to involve the public in the process (Brewer, 2008). Issues of public participation will be addressed by sociology, political science, as well as legal science. The understanding of this concept in the science of administrative law comes to the fore (Fogel, 2017, p. 630). Public participation is a manifestation of the currently gaining popularity of non-managerial forms of public administration. The concept of participation in public administration abolishes the previous division into the administered and the administering, since the administered become at the same time the participants, on certain terms, in administration (Niżnik-Dobosz, 2014, p. 42–43). Public participation presupposes different levels of public participation in the decision-making process. The decisive feature of the existence of participation is whether the authority realistically takes into account the directly reported interests of its citizens at the time of decision-making (lawmaking), and whether these citizens have the opportunity to verify whether these interests have been taken into account.

Article 8e specifies that the preparation of spatial planning acts must be carried out in a way that ensures public participation. Section 2 introduces the concept of stakeholders in spatial planning. The provision explicitly mentions that stakeholders are: natural persons, legal persons, organizational units that are not legal persons, to which the law grants legal capacity, local government units and their organizational units, public authorities, as well as other entities, in particular auxiliary units of the municipality and advisory and consultative bodies of the municipality. An important issue is the precise and exhaustive definition of the various stakeholder groups for a given area. It is worth noting that in some cases, stakeholders will be entities that are not necessarily based or domiciled in the area covered by a given draft planning act (Okolski, 2024). The term stakeholder itself means an interested person, that is, one who has an interest. It is a person directly involved in a given process. Stakeholders can be both individual entities, as well as groups or organizations interested in the area, whose interests may be affected by the decisions and actions of the planning authority.

Article 8g regulates the procedure for the submission by stakeholders of applications for the preparation of a spatial development act, applications and comments on spatial development acts and applications for the transmission of information for publication in the Urban Register. According to the amended Law, the necessary minimum is to enable written communication, both in paper and electronic form. Article 8i, however proposes a catalogue of tools through which public consultations can be carried out. According to the new Act it is obligatory to: collect comments on the project, hold at least one meeting allowing for the presentation of the project and discussion of the findings. Among the newly added forms were activities enabling direct contact with the project developers in the area covered by this project and forms of consultation involving the collection of opinions on the project through surveys or geo-surveys. The developer of the spatial planning act shall prepare a document summarising the collection of applications in the form of a list and the public consultation in the form of a report.

General plan of the municipality

One of the most important, even groundbreaking changes in the spatial planning system is the introduction of a new act at the municipal level – the general plan. Based on Article 13a, sec. 4, the scope of the general plan is defined. Its normative part will concern the most important arrangements for zoning the area of the municipality and the setting of not-to-exceed conditions for the realisation of investments in terms of the urban planning parameters and indicators defined in the municipal urban planning standards. The general plan will be able to set out the boundaries of development supplement areas – i.e. areas where decisions on development conditions will be permitted, and of inner city development areas, for which additional rules on the shaping of development and land use will be introduced. An optional element of the municipal urban development standards will be standards concerning the accessibility of social infrastructure facilities. The legislator distinguishes two obligatory and two optional parts of the general plan. The obligatory ones include: planning zones (taken into account when drawing up local development plans and issuing zoning decisions); and municipal urban planning standards (taken into account when drawing up local development plans and issuing zoning decisions). The optional parts of the general plan are areas of development additions (taken into account when issuing zoning decisions); and areas of downtown development (taken into account when drawing up local development plans and issuing zoning decisions). The unambiguous intention of the legislator was to increase the influence of municipal authorities on development and the nature of development. The indicated regulations should also be interpreted in this direction (Nowak, 2023, p. 4).

Article 13c categorises the planning zones of the general plan. The zoning will be the foundation for formulating the findings of the general plan (Stawiarz, 2023). The following zones were distinguished: multifunctional zone with multi-family residential development; the multifunctional zone with single-family housing; multi-functional zone with farm buildings; service zone; zone of large-area trade; economic zone; agricultural production zone; infrastructure zone; green and recreation zone, cemetery zone; mining zone; open space zone; communication zone. Thus, the legislator does not rule out the multifunctionality of spatial planning. However, the requirement for disjunctive zoning leads to the conclusion that this is possible only within the limits explicitly set by the legislator (which can be assessed as unfavorable from the point of view of the challenges of expanding flexibility in planning).

In terms of the planning procedure for adopting a general plan, the possibility was introduced for residents to take the initiative to develop amendments or new planning acts. Until now, such applications by residents were not voted on by councilors, the decision was left to the municipal authorities. The possibility to proceed simultaneously with a general plan and a local plan for the same area was introduced. However, a sequencing requirement has been introduced to ensure that the new local plan is compatible with the new general plan. The procedure for drafting the plan is set forth in Article 13i, which stipulates the subsequent actions to be performed by the mayor of

a municipality in connection with the drafting of a general plan. A resolution to accede to the drafting of a general plan may be adopted either by the municipal council on its own initiative or at the request of the executive body. The subject of the resolution on accession to the preparation of a local plan is only the determination of the boundaries of the area covered by the future zoning plan, and the role of this resolution is only to communicate the initiation of the relevant planning process and to designate in a graphic annex the boundaries of the area to which the arrangements of the future plan will apply. Land use, on the other hand, is determined at the stage of enacting the plan itself. A new obligation in the plan preparation procedure is the obligation to make the draft general plan available in the Urban Register, along with an explanatory memorandum and an environmental impact forecast, if required. The provision stipulates the need to amend the draft general plan as a result of the opinions obtained and arrangements made, and then only to conduct public consultations in the mode referred to in the regulations on public participation. The result of these may be the introduction of amendments to the draft master plan resulting from these consultations. In such a case, it is necessary to repeat the consultations (but no longer opinions) and make another amendment, this time already resulting, if any, from the consultations. After this stage, public consultations are no longer repeated. The procedure for drafting the general plan is crowned by the presentation of the draft general plan to the municipal council together with a report on public consultations.

It is worth mentioning Article 13l, according to which the costs of preparing a general plan are charged to the municipal budget. On the other hand, the costs of drawing up an amendment to the general plan resulting from the placement of public purpose investments of national, provincial, metropolitan or district importance shall be charged to the state budget, the budget of the province, the budget of the metropolitan association or the budget of the district, respectively. Local governments are already warning that due to a lack of funds, they will not have time to implement the regulations and this means the inability to start construction projects (The amendment of the spatial management is one of the milestones enshrined in the National Reconstruction Plan. That is why municipalities were originally supposed to receive 243.6 million zloty to enact new planning documents. To date, the money is still missing).

Changes to the process of issuing WZ Decisions

The upcoming changes stipulate that WZ Decisions will need to adhere to the guidelines outlined in the general plans, a departure from the current practice where decisions are not bound by zoning study provisions (currently WZ Decisions do not have to comply with the provisions of the zoning study). Furthermore, the issuance of a WZ Decision will depend on the identification of the completion build-up area (Polish: *obszar uzupełnienia zabudowy*) within the general plan. Consequently, if a municipality fails to designate such an area in the general plan, there will be no avenue for issuing a WZ Decision under this category. In such cases, the investor's alternative would be to apply for an Integrated Investment Plan, as discussed below. Additionally, the legislation

specifies that the maximum width of the plot's frontage for consideration in WZ Decision-making will be 200 meters. This parameter also determines the maximum area to be assessed for the purpose of issuing the decision. Hence, if there are no facilities within 200 meters of the investment plot that would facilitate the assessment of new development requirements aligned with the planned investment, issuing a decision under this context will not be feasible. Municipalities, within the general plans, will have the option to establish municipal social infrastructure standards (Polish: *gminne standardy infrastruktury społecznej*), such as distance from schools or public green areas, as part of their discretionary power. Consequently, obtaining a WZ Decision will be contingent upon proposed developments meeting the aforementioned municipal infrastructure accessibility standards. The new legislation introduces a stipulation that WZ Decisions under this category will expire within 5 years of becoming non-appealable. However, this rule will not be applicable to WZ Decisions that attained non-appealable status before the enactment of the Act. Therefore, final WZ Decisions that do not achieve non-appealable status by the Act's effective date may fall under this new rule.

Urban Register

The Act provides for the creation of a publicly accessible online urban planning register, which will contain, among other things, documents produced during the preparation of planning acts, public consultation reports, as well as applications for WZ Decisions and final WZ Decisions. The overriding goals of continuous, widespread and unfettered public participation are also to be served by making available, upon individual request by a stakeholder, information on the inclusion of new entries in the Urban Register. This will be an obligation incumbent from the filing of the request until the provision of such information is abandoned. The entity responsible for reliable and timely information on new entries will be the minister responsible for construction, planning and spatial development and housing. Significantly, such sharing does not have to take place through an electronic delivery box correlated with a trusted profile, but through generally used e-mail, which does not require identification of the addressee (Daniel et al., 2023). The data collected in the Urban Register will be made available with the assurance of its interoperability, i.e. full compatibility with other elements of the entire public information system (existing or to be created); free of charge; openly except for personal data. As of January 1st, 2026, the Registry is intended by the legislator to become a reference source of information and data in the field of planning and spatial development. According to its intentions, the Registry will be ICT in nature and, in accordance with Article 67d, will collect information and data on planning and land use. It is necessary to ensure cyber security of the processed data (Besiekierska et al., 2022). The regulation contained in Article 67d stipulates that in the footsteps of the digital tools introduced in the Construction Law, the processes related to space management will also undergo gradual digitization. Consequently, the entire investment and construction process will be based on modern tools, which are expected to facilitate

and accelerate investment and construction processes (Niewiadomski et al., 2023). Digitization of space management processes is another stage of a broader process in the creation of public e-government, as well as the formation of an information society. This is because both public administration and society are the subjects of transformations related to the use of modern technologies in space planning. Both of these parties are also its beneficiaries.

Conclusions

The analysis of the spatial planning reform in Poland, introduced through the July 2023 amendment to the law, shows the main changes and their impact on various aspects of the spatial management process. The aim of the amendment is to simplify the procedure for adopting general and local plans, which is expected to reduce the chaos in spatial development in Poland. According to the Law, the master plan will be in digital form. This is to solve the current problems in that the lines drawn in the paper version of the study and development plans, e.g. marking the boundaries between different zones, are not so precise that they can be interpreted down to the square metre on the ground. The digital version will allow the map to be zoomed in at will, so it will be much more accurate. The reform introduces significant changes to the process of issuing Decisions on development Conditions (DODC), requiring compliance with the master plan's objectives.

The new legislation also provides for greater public participation in planning processes, through the introduction of new forms of public consultation and a municipal master plan. Increased communication between residents and decision-makers is intended to better address the needs of local communities and increase acceptance of decisions.

Some of the changes come into force on 1 January 2025, i.e. the provisions on the publication of spatial data created for the master plan. The remaining part comes into force on 1 January 2026, i.e. the amendments concerning the Urban Register (and the obligation to publish the data of the Data Register) and the amendment concerning the 5-year validity period of zoning decisions. Implementing the changes comes at a cost to municipalities, which creates challenges in implementing the regulations. Local authorities are already warning that they will not have time to implement the regulations and this means that construction projects cannot start. Insufficient number of urban planners for 2477 municipalities – fear that plans will be of poor quality, created on the basis of copied feasibility studies.

Summing up, the new regulations are aimed at increasing public participation, facilitating investment processes and increasing consistency in spatial management. However, their effective implementation will require adaptation and financial resources, which poses challenges for local governments in implementing the new regulations.

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