

Developing the rules of the game

Report on Online Workshop of the International Working Group (IAK)

Land Policies in Europe, 29 October 2020

Introduction

Instruments of land policy implement spatial planning by deliberately intervening in the allocation and distribution of land (Davy 2005; Hengstermann & Gerber 2015). Accordingly, instruments of land policy grant, change, or deprive property rights in land. Planners have various instruments at their disposal – ranging from incentivizing approaches to redistribution of property rights (see Gerber et al. 2018). Planners can use strategic combinations of instruments to influence what happens on land. However, the selection of instruments is a political act in itself, and often planners choose the instrument they know well or that worked before, instead of reflecting on the most suitable instrument for specific situations.

Such reflection, however, can help planners to develop better land policy. Better can sometimes mean selecting the most effective instrument, but in certain situations an instrument that is more flexible and less interventive might be the instrument of choice. Public policy analysis knows several criteria to evaluate policy interventions: effectiveness, procedural efficiency, allocative efficiency, legitimacy, or justice (Needham et al. 2018). Such criteria can help planners choose policy instruments, but when reflecting on these criteria and learning about the values and the constraints of the own planning instruments, it helps to reflect on the planning instruments compared to different planning systems.

International workshop

Such international reflection is at the core of the ARL international working group on Land Policies in Europe. In October 2020, the working group, led by Thomas Hartmann (Wageningen University) and Andreas Hengstermann (University of Bern) organized a workshop to facilitate a debate on instruments of land policy and how they are used strategically – probably in combination with other instruments – by public authorities in different countries. In an interactive online session, more than 50 instruments from 10 countries in Europe were discussed by 20 leading international academics in land policies.

After Evelyn Gusted welcomed the working group, Andreas Hengstermann presented recent developments of German land policy and the ongoing reform of German land policy instruments resulting from the law on mobilizing building land (*Baulandmobilisierungsgesetz*).

The central part of the meeting then started: the development of a game on instruments of land policy.

In preparation for the workshop, the representatives of the various countries had prepared short descriptions of five relevant land policy instruments, answering the questions: How does the instrument work in general? What does the legislator intend with this instrument? How does the instrument fit in the toolbox of instruments (i.e., in relation to other instruments)? How did it develop over time? These were assembled as factsheets, which created the basis for the game. The game served as a mere trigger for more in-depth debate on the instruments and their functioning in specific contexts.

Developing a game

The game consists of three steps, each building on the previous one and each with a specific target: first is the development of playing cards, second is playing the game, and third is a reflection on the game.

The playing cards resemble a version of quartet which is often played with cars, where players compare horsepower or maximum speed to win the other players' cards. For the planning instrument game, each instrument is characterized in small breakout groups according to simplified criteria of effectiveness, procedural efficiency, allocative efficiency, legitimacy, and justice. Each category is narrowed down to a gradual scheme to allow the game to be played. This step aims to make participants familiar with the instruments and identify initial debates about the way they function. The simplified criteria thereby act as a trigger for debate about more complex and in-depth aspects and the specificities of the instruments in relation to instruments held by other players (i.e., countries). The online session focused on this first step of the game.

In the second step, the players are presented with a particular challenge for land policy in line with those that characterize the current political debate in Germany, such as securing affordable housing in a gentrification area, a brownfield development, or the challenge of developing a new big housing district. Each player then applies the instruments to resolve the issue at stake. Based on the scoresheet, a winner is identified. This step of the game is played with stakeholders from German planning practice, so as to embrace a transdisciplinary approach.

The third step consists of reflection on the game's outcome and is meant to involve an in-depth discussion of the instruments and their strategic use.

In October, the online workshop focused on the first step and prepared the subsequent two steps, which will be played in the next meeting of the international working group.

Results and observations

There are a couple of results and observations. One of the observations on the instruments themselves was that some are common in many planning systems, such as local land-use plans or expropriation. Others are more exceptional, such as article 34 of the German Building Code on infill development or the obligation to build in Switzerland. For the standard instruments, the exercise of scoring instruments revealed nuances that were not always obvious but nonetheless highly relevant, so that a more detailed debate on the strategic uses of instruments was possible. The discussion also revealed some surprisingly similar challenges – e.g., between Poland and Belgium on compensations for downzoning. Consideration of the exceptional instruments led to mutual learning on how similar problems are approved differently for various, often political or historical reasons. The debate confirmed that land policy instruments are not value-free and neutral, and that they shape the relation between planning and property rights.

Another observation relates to the exercise itself. Scoring the instruments based on the simplified given criteria was challenging, and the results should not be seen as absolute and positivistic empirical results. Instead, they represent qualitative and, in part, subjective views by the experts participating in the sessions. Nonetheless, this exercise enables a structured debate on the relation of the instruments to one another, and this provided the basis for an exploration of strategically combining instruments.

Outlook

The international working group started with an explorative workshop in 2019 in Mannheim (see ARL Nachrichten 49(2)), was then formally set up by the ARL, and met in February 2020 in Ústí nad Labem (Czechia). In the previous meetings, the main topics of land policy were central (housing, land thrift, densification). With the current focus on land policy investments, the group has now explored land policies in Europe at a greater level of detail. Future meetings are intended to focus increasingly on relevant policy actors to ultimately achieve a more comprehensive picture of the topic.

While this comprehensive overview is an academic endeavor in itself, the game and its development might also prove valuable in teaching. So, the international working group on land policies in Europe promises more deliverables in the future. This is supported not only by the high level of expertise of the members and affiliated parties but also by the vast amount of enthusiasm and energy of all involved in the activities.

References

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