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Factors influencing day-to-day planning: protest – cooperation – indifference?

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FACTORS INFLUENCING DAY-TO-DAY PLANNING: PROTEST – COOPERATION – INDIFFERENCE?¹

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Abstract

Current planning debates are characterised by the tension between political and societal goals on the one hand and questions of local implementation on the other. The general public and individual citizens are core elements of any planning process, with their level of involvement in day-to-day planning ranging from protests to cooperation to indifference. There are gaps in our knowledge about which factors affect planning stipulations in everyday practice. Using empirical data gathered in basic research on German municipalities of all sizes, this article develops an exploratory comparison of the planning challenges posed by the energy transition and the integration of major accident prevention in urban land-use planning. It identifies differences, the significance of internal and external influencing factors, and starting points to pave the way to better cooperation in daily planning activities.

Keywords

Urban land-use planning – civic participation – energy transition – planning practice – major accident prevention

1 The empirical part of this article is based on the results of a research project on the implementation of industrial immission control regulations in urban planning (*Implementation von Rechtsvorschriften zum gewerblichen Immissionsschutz in der Stadtplanung, IRIS*), which was funded by the German Research Foundation (*Deutsche Forschungsgemeinschaft, DFG*). The project is headed by Sabine Baumgart (Urban and Regional Planning department of the Faculty of Spatial Planning at TU Dortmund University) with support from Andrea Rüdiger, Christian Lamker, Raphael Sieber and, in the first phase, Heike Köckler and Johanna Schoppengerd. The author thanks the entire project team.

1 Introduction

The implementation of the German energy transition, like that of many large-scale infrastructure projects, is often accompanied by highly controversial public debates and protests, and a feeling that hierarchical planning is being imposed from above. Though the energy transition enjoys a large degree of public acceptance, it is only through local planning that it becomes visible and graspable to citizens, who then reject specific projects in their neighbourhoods. In other words, the citizens appear to stand in the way of a successful energy transition. This necessitates detailed strategies to engage the public at an early stage, enable joint decision-making and support implementation – through to sharing the economic benefits in new forms of collective organisation (Beckmann et al. 2013; Schüle et al. 2013: 16 et seq.).

At all spatial levels, the greatest public influence is often discussed in connection with legal uncertainty and protests (Beckmann et al. 2013: 6 et seq.; Schüle et al. 2013: 16 et seq.; Prieb/Schmitz 2015). Previous indifference or abstract acceptance stemming from a feeling of not being directly affected becomes open protest. From this situation, it is difficult to reestablish common ground for discussions. But to date there are still gaps in our knowledge about how citizens influence planning decisions in everyday life and how their influence in combination with other factors – e.g. legal requirements, technical capabilities and guidelines, or the availability of and the means to process information – affects decisions. Examples that have been examined include plans that were accompanied by public protests or referendums on the one hand and, on the other, best practices that test and successfully apply new forms of (early-stage) cooperation. A foundation more strongly anchored in the day-to-day business of planning can help in dealing more effectively with new challenges that affect every citizen on a daily basis.

2 Citizens in planning processes

Citizen involvement in planning is a long-established topic in both planning studies and planning practice. Argumentation, evaluation and coordination are core elements of today's planning activities (Hellmich/Lamker/Lange 2017: 12). Going beyond the initial efforts of the *communicative turn* in the 1990s, the research landscape has become more diversified internationally and, increasingly, in German-speaking countries as well. In place of a standardised idea of what citizens and participation mean in planning processes, a broad range is becoming apparent.

Diller (2015) investigated the interfaces of participatory processes, the ideal policy cycle and ways to exert influence over time, concluding that participation itself had mainly been optimised thus far but that the interfaces to the political process had been inadequately considered in practice and in research (Diller 2015: 13). From an extensive series of interviews in the first quarter of 2016, Ginski et al. (2016) provide insights into multilateral communication in planning processes. They point out that communication processes can be designed to influence the motives and expectations of those participating (Ginski et al. 2016: 18). This leads to the question of whether the relationship between citizens and planners needs to be reconsidered if uninflu-

enced discussion in which only the best argument wins cannot take place in spite of elaborate and very carefully designed processes.

Beyond the criticism of idealistic communicative approaches, questions of power and conflict have been addressed increasingly since the 2000s, especially from an analytical perspective. Innes and Booher (2010: 104 et seq.) emphasise that *'conflict, tension and agonism are essential in collaborative processes as they form the core of collaborative rationality'*. Reuter (2000: 13 et seq.) highlights the reciprocal relationship between power and discourse and emphasises the unending regress of procedural rules. Planning discourses are intended to prevent the abuse of power, but they themselves represent power constellations, and power limits the discourses that are possible. The focus then shifts to the political role of planners, at a remove from ideal solutions or a consensus-based ideal process (Reuter 2000: 14 et seq.). In this regard, Legacy (2016: 13) points out that participatory processes have a dialectical and constitutive relationship with the subjectivity of political engagement. She attributes a crisis of participatory planning to a narrow view of the planning system and the participatory instruments provided within it; these instruments are intended to depoliticise the general public, which in turn may resort to protest (Legacy 2016: 14).

Conflict theory approaches address the emergence of hegemonic discourses and power configurations from a post-structuralist perspective. Gualini (2015) compiled corresponding approaches, connecting them with deliberative approaches to working with planning conflicts. The integration of impulses from discourse theory in planning theory is the subject of ongoing discussion (Günzel 2016). On the other side, planning processes have again been increasingly viewed from the perspective of democratic theory in recent years through a reappraisal of the opportunities for and limits of participation in our democratic system (Tenz 2011; Inch 2015). In a rare exception, Inch (2015: 421) emphasises that rules for democratic decision-making in planning processes also impose a range of requirements on the citizens involved and that there is more discussion about the positive aspects than about the 'hidden costs'. Finally, the Anglo-American debate contributes post-political and post-democratic considerations that are considerably more critical of planning and also call into question fundamental assumptions in communicative and political planning processes (Allmendinger/Haughton 2012; Metzger/Allmendinger/Oosterlynck 2014; Legacy 2016). At the same time, conflicts are also occasions for reaching decisions democratically and for working out acceptable compromises.

3 The energy transition versus major accident prevention – protest versus indifference

There are thus plenty of reasons to assume the existence of conflicts in all general spatial planning activities and to expect that concluding a planning process with a consensus is more a theoretical construct than a common, practical reality. Still, by no means are all planning processes beset by protests. In many planning situations, the planners are faced with public indifference. Thus far there have been few scientific explanations for these major differences. For the following exploratory discussion,

the energy transition and planning for major accident prevention are regarded as planning challenges that are discussed in public and treated in planning in very different ways. This article addresses the question of whether a better understanding of day-to-day planning activities could help to deal more successfully with even the most contentious issues. It provides ideas about how planners can act to move closer to cooperation and away from both protest and indifference in all issues.

The foundation for this is empirically grounded basic research in German municipalities of all sizes² on the question of which internal and external factors affect the implementation of regulations in urban land-use planning. One focus of the analysis is planning for major accident prevention. Many citizens live in the immediate vicinity of facilities with a high potential for damage to property and health in the event of major accidents. In spite of this, indifference rather than protest is the rule even in the case of new plans. But what differentiates the invisible challenge of major accident prevention from the (apparently) visible or more publicly discussed challenge of the energy transition?

In Germany the *energy transition* is primarily associated with the government decision to phase out nuclear power by 2022 and with the policy objective of reducing greenhouse gas emissions. The latter is based on two pillars, the production of energy with renewables and increases in efficiency, and its goal is emissions reductions of 40% by 2020 and 80% by 2050. The complete decarbonisation of society and the economy is now set as a long-term objective. The expansion of the extra-high voltage grid for the transmission of electricity from the windy northern federal states to the southern federal states, which have thus far been more dependent on nuclear power, was the subject of particularly vigorous discussions regarding the practical implementation of these objectives. *Major accident prevention* has been integrated in immission control, urban land-use planning and building regulations through the European Union's Seveso Directive. The Seveso I Directive (82/501/EEC) was adopted in 1982 and the Seveso II Directive (96/82/EC) in 1996. The requirements of the Seveso III Directive (2012/18/EU) adopted in 2012 and implemented in Germany in 2016 are now implemented in German planning and immission control laws. The separation principle anchored in section 50 of the Federal Immission Control Act (*Bundesimmissionsschutzgesetz, BImSchG*) obliges municipalities to observe the requirements of major accident prevention in their urban land-use planning (Schoppengerd 2015: 80 et seq.). Though both issues can look back on a long history, only in about the last five years have they fully taken effect in planning practice. For major accident prevention, an oft-cited catalyst is the judgment in the Mücksch case on 15 September 2011 (Court of Justice of the European Union (CJEU) 2011; cf. Uechtritz/Farsbotter 2015); the public is to be accorded higher standing in the implementation of the Seveso III Directive (Wasielewski 2015: 152 et seq.).

2 See the explanations in the next section.

	Energy transition	Major accident prevention
Spatial reference	Linear (power line routes) and point-like (facilities)	Point-like (operating areas according to the 12th Federal Immission Control Ordinance)
Time frame	Medium- and long-term negative impact; (usually) no imminent risk	Short-term negative impact; imminent risk
Consequences	Economic consequences (property values) – high probability	Physical consequences (personal health) – low probability
Negative impact	Perceived subjectively (landscape appearance)	Objective risk (major technical accidents)
Starting point	Popular consensus / political objective	Technical after-effect (of economic activity)
Discussion level	Political and public debate (e.g. Fukushima)	Technically and legally implemented (Seveso Directives, KAS guidelines)

Table 1: Energy transition and major accident prevention. Source: the author

Table 1 compares different aspects of the energy transition and planning for major accident prevention. The energy transition's spatial reference includes linear power line routes and point-like installations for producing energy with renewables. Major accident prevention assumes operating areas as defined in the 12th Federal Immission Control Ordinance (*Verordnung zur Durchführung des Bundes-Immissionsschutzgesetzes, BImSchV*). Major-accident legislation does not cover transport routes that are outside of an operating area. Facilities with potential for major accidents include large biogas plants with 10 tonnes or more of raw biogas.

The time horizon for the energy transition is medium- to long-term over years and decades. Between planning and the actual spatial changes, there can be long time spans during which there is generally no imminent danger. However, there is a high probability of economic consequences ranging from changes in property values to loss of properties. There are also subjectively perceived negative impacts from effects such as changes in the appearance of landscapes. In contrast, major accidents have a short-term impact with imminent danger to personal health but a low probability of occurrence. Major-accident legislation gives special attention to the accidents that could be possible in spite of compliance with all technical and legal regulations. When they do occur, major technical accidents are an objective danger for all people and animals living in the vicinity.

The energy transition's starting point is a political objective based on a social consensus. It involves considerable political and public discussion about aims, alternatives and actions – especially since the tsunami and the nuclear accident in Fukushima in 2011. In contrast to major accident prevention, it involves the possible technical consequences of economic activities and production. This matter is mainly

implemented by technical and legal means, for example with the Seveso Directives and their integration into national legislation, and with the guidelines of the Commission for Process Safety (*Kommission für Anlagensicherheit, KAS*) at the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety.

4 On the path to day-to-day (urban land-use) planning

Identifying reasons for differences in planning responses requires insights into day-to-day planning, in this case in urban land-use planning. Current studies on actual day-to-day planning in German municipalities, except for flagship or city projects, are rare. Exceptions include the investigation by Rüdiger (2009) on the relationship between city size and everyday spatial planning in medium-sized German cities. Equally relevant are the papers by Selle (2006), which focus on analysing everyday planning practice, and by Klemme and Selle (2010) on stakeholders, interdependencies and options in the development of settlement areas.

This article is based on the results of a research project on the implementation of industrial immission control regulations in urban planning (*Implementation von Rechtsvorschriften zum gewerblichen Immissionsschutz in der Stadtplanung, IRIS*), which is funded by the German Research Foundation (*Deutsche Forschungsgemeinschaft, DFG*) and has been in progress in the Urban and Regional Planning department at TU Dortmund University since 2014.³ By means of two questions, it draws a distinction between external and internal influences (see Fig. 2). Both questions aim to identify the most important factors influencing how legal regulations are applied and interpreted in day-to-day planning (cf. Fig. 1 in next section).

Between November 2015 and January 2016, the IRIS project⁴ contacted all German municipalities with a population exceeding 20,000. In all, 109 complete responses (response rate 15.9%) were analysed. The results cover all size categories. The largest share of the responses (68.8%) was from municipalities with populations between 20,000 and 50,000. Averaged over all surveyed municipalities, eight people work in urban land-use planning. In 25.0% of the municipalities, the figure is only one or two, in 64.8% it is five or fewer. The assessment of the results was underpinned by interviews with researchers, planning practitioners and immission control experts, and by qualitative case studies in 15 German cities in eight federal states. The case studies reveal that aside from sound data acquisition, many personal factors that cannot be ascertained in quantitative sampling are crucial. Though municipal planning activities are influenced by institutional factors, even at the micro level differences in the application and interpretation of legal regulations are attributable to differences in detail that can be traced back to the level of individual staff members and to their networks and motivations. These factors become all the more important when one considers that urban land-use planning is carried out in most municipalities by only a few individuals.

3 The author of this article has been working on this project since May 2016.

4 This paragraph has been adopted from an article submitted by Lamker and Rüdiger (forthcoming).

5 Factors influencing planning activities

The actions of any public planning authority are determined by its institutional framework, which also includes the relevant legal requirements. Though the legal certainty of planning decisions is frequently emphasised, more than half of the surveyed municipalities indicated deficits in knowledge about current planning law regulations relating to industrial immission control. In practice, then, planners' weighing of interests and decision-making also depend on the knowledge of other actors such as specialists and consultants.

The empirical starting point for the exploratory analysis in this article is the influencing factors that connect the day-to-day work of planners, the institutional framework, and legal regulations against the backdrop of planning stipulations in binding land-use plans (cf. Fig. 1). All variations on the continuum between vehement protest and complete indifference are conceivable at the interface between day-to-day planning and the stipulations made by planners. The themes considered here – the energy transition and major accident prevention – represent two paradigmatic cases (cf. Flyvbjerg 2006: 232) which can offer a perspective on the range of influencing factors in very different areas of planning practice.

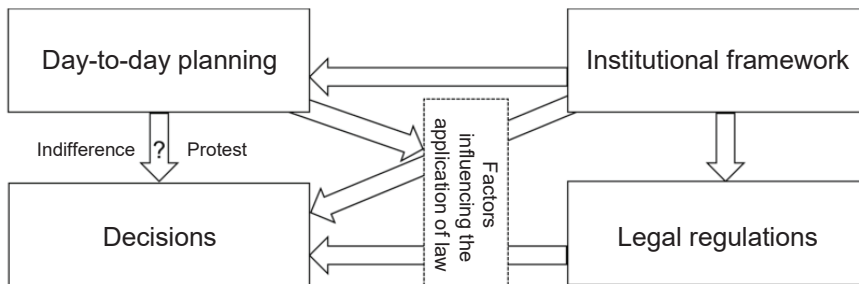


Figure 1: Simplified illustration of the empirical starting point. Source: the author

The model described by Schoppengerd (2015), adapted based on the empirical findings, served as a basis for the theoretical model used to *classify the influencing factors*. Fig. 2 shows the main categories of the 14 identified influencing factors. Behind them are a total of 51 influencing factors (22 external, 29 internal) that were used in the analysis of the empirical material. The theoretical basis of the model is the actor-centred institutionalism described by Mayntz and Scharpf (1995). Whether planning is successful (meaning in this case that it ends in the adoption of a plan) depends on a complex interplay among all of the influencing factors. With regard to planning for major accident prevention, this also includes the initial question of whether the matter is considered at all (Schoppengerd 2015: 243 et seq.). Not all municipalities even know that they have facilities with potential for major accidents; 14.6% of the surveyed municipalities answered the question about such facilities with 'don't know'. Even among those that have such facilities and also have basic information about their operating areas, 6.3% do not address the issue in their urban land-use planning. They often become aware of the (initial) situational relevance of

the matter through their own knowledge, external information or compulsion (Schoppengerd 2015: 245 et seq.).

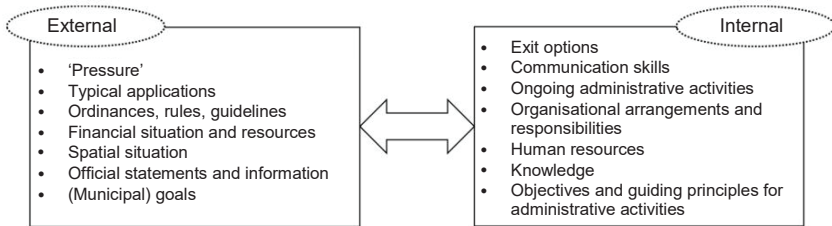


Figure 2: External and internal influencing factors. Source: the author

The picture emerging from the ongoing investigation indicates that the crucial factors influencing planners' treatment of major accident prevention issues are largely internal. Ongoing administrative activities, organisational rules and responsibilities, availability of staff and knowledge have a significant influence on whether and how stipulations are made. Additional influence includes pressure, official statements and information from external sources, especially higher-level administrative authorities. Whether and in what form major accident prevention is integrated into planning practice differs significantly from one municipality to another, even in similar spatial situations. The survey of German municipalities also confirms that the identification of conflicts in major accident prevention mainly takes place within agencies through information provided by other agencies (84.4%), through available expert reports (81.3%) and through statements by public agencies (78.1%). Active surveys of and information provided by businesses (46.9%) or residents (3.1%) are much less relevant. This causes considerable uncertainty for urban land-use planners in the application of the law, but also grants them freedom of action. In interviews, many planners indicate that residents are indifferent to facilities with the potential for major accidents, even when such facilities are in their immediate vicinity, as long as the facilities do not have a direct impact on their property, for example through land acquisitions or compulsory purchases.

The energy transition is mainly discussed in connection with external factors. Angry citizens, decisions described as having no alternative, and material or legal constraints serve to justify decisions made in spatial matters and to solicit public acceptance (Mitschang/Schwarz/Kluge 2012; Beckmann et al. 2013). In this respect, typical applications, ordinances and guidelines, external pressures, the spatial situation, official statements and information, and the aims and demands of (municipal) politics appear particularly relevant. The meaning of the energy transition is a matter of intense discussion outside of planning administrations and is often returned to them as an external mandate. Urban land-use planners' own freedom of action is highlighted less often in such discussions.

In the investigations for the IRIS project, knowledge transfer was found to be a crucial factor for differences in the application of law:

- > *vertically*, from higher-level (sectoral) agencies down to the administrative level;
- > *horizontally*, between different agencies within a city and the agencies in other cities;
- > *with respect to substance*, between the authors of complex legal regulations, the specialists applying them, and the planners integrating them;
- > *personally*, in exchanges between individual staffers.

The personal aspects have thus far been addressed least in planning theory, but they are the cause of significant differences in the case studies. As a niche issue, major accident prevention reveals the dependence on the knowledge of individuals and on their abilities to impart it systematically to their colleagues and apply it to new situations. In many cases, a high-degree of staff self-motivation could be observed, above and beyond the reactive gathering of knowledge and catch-up learning from mistakes (*trial and error*). The IRIS project did not evaluate or audit planning decisions, but overall it can be seen that very different solutions are implemented and accepted at the local level. The high degree of technical and legal uncertainty (cf. Uechtritz/Farsbotter 2015: 1919 et seq.) leads in some cases to inaction but in others to very far-reaching and creative solutions.

6 Starting points on the path to cooperation

Everyday planning is shaped by a variety of influences, from external and internal factors to factors specific to individual planners. Though it is easy to recognise and distinguish protest or indifference retrospectively, it is nearly impossible to identify such developments in advance. A comparison of two paradigmatic cases from very different fields (the energy transition and major accident prevention) contributes to a more nuanced understanding of the factors influencing planning stipulations as a legally standardised fixation of planning activity. It remains to be noted here that planning need not always polarise and politicise. Day-to-day urban land-use planning also involves situations and issues for which planning goes ahead without public protests in spite of far-reaching spatial effects. A greater understanding of the internal *and* external influencing factors *and* their interactions is necessary for a scientific examination of the issue. This enables a focused look at minor local differences and the development of relatively small-scale starting points to support practical planning work in many fields.

The energy transition is characterised by arguments to the effect that there must be no externally imposed decisions with no alternatives; instead, local and democratic decision-making processes are important to increase acceptance. These processes include public participation and new forms of involvement in decision-making processes and economic benefits (Beckmann et al. 2013: 17 et seq.). At the same time,

there is comprehensive guidance on exactly what the energy transition is supposed to mean in individual cases in planning practice. A context-specific interpretation of this guidance is necessary for open discussion in everyday planning and opens up room for manoeuvre that makes alternatives possible. That shifts the focus more towards the internal local influencing factors.

From the exploratory comparison of the energy transition and major accident prevention action areas, this article sets forth the following three theses suitable for further scientific examination:

- > ‘Successful’ planning requires a systematic analysis of internal and external influencing factors and their interactions.
- > Planning that is mainly affected by internal factors has few conflicts but can fail at its legal mandate.
- > Planning that is mainly affected by external factors is beset by many conflicts and has few starting points for dealing with them.

A systematic analysis of even the less apparent factors influencing planning stipulations and the examination of interactions can contribute to a generally more successful planning process that can develop formal and binding plans from the debates and bring them to a successful conclusion. However, this deliberately excludes the question of how the interfaces to political decision-making can be safeguarded (cf. Diller 2015).

When planning is mainly influenced by internal factors, it appears potentially freer of conflicts. On the positive side, it offers the chance to develop new and creative solutions that actually focus on local particularities and the needs of local residents. But on the negative side, it also involves the possibility that an issue may not be addressed at all or that only minimalistic solutions will be worked out. In this case, planning threatens to fail at its legal mandate. Planning that is mainly influenced by external factors has the potential for many conflicts. On the positive side, it can work according to guidelines and fulfil its legal mandate. On the negative side, however, it has less potential for the weighing of interests by planners, fewer options for explaining its actions and fewer opportunities to address specific local issues.

With regard to the challenges facing society as a whole, more than just the perspective on legal or technical factors is relevant. Personal knowledge and abilities as well as organisational rules and responsibilities in planning administrations are key elements behind local differences in the application of law:

- > Who implements the energy transition in (local) practice?
- > How can purposeful action be effectively supported (and explained)?

If the goal is collective democratic planning and decision-making at the local level, support from planners has to go beyond guidelines or good examples from other

locations. Concentrating merely on the design of communication-based and inclusive decision-making processes is less likely to be successful as that involves disregarding important factors that influence decisions in favour of a focus on consensus. Also important in this regard are connections with other informal instruments that can be used in a complementary manner.

The great importance of interpersonal knowledge transfer and location-specific reactions in major accident prevention in combination with uncertainty among local planners offers fertile ground for joint transdisciplinary approaches to generating and transferring knowledge. From a scientific point of view, major accident prevention remains a very interesting field from which all planning organisations can learn. There are few other fields that have such long-term relevance for planners and which enable both deep insights into the integration of new issues in everyday planning and into small-scale differences in implementation.

The author

Dr. Christian Lamker (b. 1984) studied spatial planning (Dipl.-Ing.) in Dortmund and Auckland and earned his doctorate (Dr. rer. pol.) from the Spatial Planning and Planning Theory department at TU Dortmund University in June 2016 with a thesis titled 'Unsicherheit und Komplexität in Planungsprozessen: Planungstheoretische Perspektiven auf Regionalplanung und Klimaanpassung' ('Uncertainty and Complexity in Planning Processes: Planning Theory Perspectives on Regional Planning and Adapting to Climate Change'). He is a researcher in the Urban and Regional Planning department of the Faculty of Spatial Planning at TU Dortmund University.

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