

Vertical and Horizontal Cooperation of Local Public Authorities in the Process of Territorial Governance

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ABSTRACT

This paper is intended to identify and assess with a critical eye some of the challenges that lie to vertical and horizontal cooperation of local public authorities in the process of territorial governance. Despite complicated relations in a multi-level governance setting, cities are an integral part of the regulation for spatial planning. The paper argues that beyond the decision-making core, strategic planning seeks to coordinate the policies of a large and complex group of actors: public authorities at different levels, from national level to the municipality, private partners, representatives of civil society. The development of cooperation procedures, which is not specific to urban planning and development, runs through all public action. In the Romanian system, spatial planning documents are part of a unidirectional hierarchy of rules: planning documents at the lower level must be compatible with those at the higher level. The paper analyses the way this cooperation goes between the authorities and conclude that expectations for improved governance sometimes have conflicting objectives.

KEYWORDS: *local authorities, territorial governance, strategic planning*

1.Introduction

Following the collapse of the central planning system in 1989, Romania had to redesign its planning system within the parameters of a market economy and democracy. From a rationalist and functionalist planning, centred on land use, the focus shifted to a strategic spatial planning, oriented towards the development and implementation of a vision, a common spatial project.

This process has encountered many difficulties, interruptions and restarts, and is currently in full swing. The legal, regulatory and institutional frameworks have evolved continuously to respond to the changing needs and challenges. Over the last 30 years, Romania has made the transition from radical, centralised planning to planning that has to adjust to market rules, and is now struggling to redefine and impose new objectives for spatial planning functions. Significant effort and energy has been invested in building a spatial planning system that operates according to market rules, and in changing public perception and discourse on the subject.

Law 350/2001 on spatial and urban planning¹ is the backbone of the regulatory framework for spatial planning activities in Romania. It sets out the principles, objectives, activities and institutions related to the spatial planning system in Romania. It also marks the beginning of a relatively prolific decade of new laws and regulations, which have gradually defined policies and procedures related to spatial and urban planning. Previously, the post-communist regulatory framework was mainly based on Law No. 50/1991 (on the authorisation of construction works and

¹Published in OFFICIAL MONITOR No 373 of 10 July 2001

certain measures for housing development)², a law with little mention of spatial planning and with a focus mainly on building regulations.

In the last decade the abundant legislative production has profoundly reformed public administration and our system of territorial planning. It has opened up new areas of investigation which, as part of a continuum of concerns, have enabled us to confront them at different spatial levels, from the local ones to the national ones.

The debate on spatial planning in the 2000s had the merit of bringing to public placing under public scrutiny the questions that the first decade of decentralisation highlighted - the multiplication of levels of territorial authorities, the redundancies between counties, the imperfect response of local authorities to the problems raised by our community fragmentation. The responses considered revealed that there are two possible ways forward: on the one hand, simplification of the administrative landscape (the need to rethink the administrative system by setting up regions as public law entities) and, on the other, improved partnership procedures, in which local authorities play an important role, or new possibilities for interregional cooperation.

2. Specificity of spatial strategic planning

In the initial version of Law 350/2001 on spatial planning and town and country planning, the legislator chose the prudent path, preserving institutional overlaps without calling into question the general competence clause of local public authorities. In the absence of a strategy and a clear set of public policies, there could be no question of ensuring coherence between spatial policies, and the law therefore established a flexible hierarchy (compatibility) between their spatial documents, from the National Spatial Development Plan (PATN)³, whose preparation and adoption by law was announced, to county spatial development plans (PATJ), to zonal plans (PATZ) and then to local documents.

We saw the future PATN as a tool for ensuring coherence both vertically - between the planning strategies of institutional actors at different levels - and horizontally, between sectoral policies. This has meant underestimating the extent of resistance at both state and local government level.

Beyond the decision-making core, strategic planning seeks to coordinate the policies of a large and complex group of actors: public authorities at different levels, from the European Union to the municipality, private partners, representatives of civil society. The development of cooperation/coordination procedures, which is not specific to urban planning and development, runs through all public action. It is often the key to the successes and failures of its modernisation. However, the exercise presents real difficulties. Each of the parties involved pursues different objectives, which may diverge from the others; each comes with its own timetable and its own constraints, its own working methods, its own vocabulary and its own culture of the sphere to which it belongs, so that achieving harmony is not easy.

²Republished in OFFICIAL MONITOR No 933 of 13 October 2004.

³Text published in the Official Journal, Part I, No 806 of 26 September 2006.



The particularity of spatial strategic planning is that the joint project is a territorial project. The aim of collaboration is to shape the space of an often fragmented society. However, some of the expectations expressed with regard to project practices are common to organisational sciences: the emergence of collective intelligence, the facilitation of cooperation, in particular through the formulation of a consensus to which the actors can adhere, and the concrete translation of these advances, in particular by improving the efficiency of public spending.

Finally, the project is expected to go beyond the compartmentalisation of administrative territories and sectoral areas of intervention; the relationship between them is embodied in a framework agreement, which enables the various actors involved to formalise their participation in the joint project and measure its effects.

Cooperation, including around a project, is not self-evident. Although the actors involved are active in the same field, they have different motives and reasoning which, a priori, do not always coincide. Getting these actors to work together in different types of cooperation is therefore a major challenge. In the literature, a distinction is usually made between vertical cooperation, which aims at coordinating the policies of public authorities at different levels, and horizontal cooperation, which includes cooperation between neighbouring authorities but also coordination of sectoral policies.

At European level, the European Spatial Development Perspective (ESDP) promotes the optimisation of these two modes of cooperation. An analysis of the forms of vertical and horizontal cooperation in Romania allows us to assess the advantages and shortcomings.

3. Vertical and horizontal cooperation of public authorities

Vertical cooperation involves public authorities at different levels⁴. Their levels of intervention overlap, which causes some mistrust on the part of local actors, who easily associate the word "vertical" with a return to the hierarchical logic of centralisation. The synonymous expression "multi-level cooperation" is more acceptable. However, the existence of this hierarchy, and even of a decision-making hierarchy, does not necessarily lead to a top-down, one-way relationship. Organising a back-and-forth between public authorities occupying different levels on this vertical ladder can lead to co-decision.

Chapter III of Law 350/2001-2011 describes the powers of the different levels of public administration: central, county and local. Several aspects should be noted. The central administration is limited to a coordinating and advisory role in relation to all urban and spatial planning projects. The competent ministry draws up the planning plans at national and regional level (different thematic sections) and approves the urban and spatial planning documents for the lower territorial levels (i.e. counties, cities - county seats and other rural and urban settlements acting as tourist resorts). Both the competent ministry and the county council may request local councils "to draw up or amend urban or spatial planning documentation in order to achieve better compliance with the requirements of the detailed documentation, the application of the provisions

⁴Alexandru, D., 2016, *"Land and Property Rights within the Urbanism Law"*, AGORA International Journal of Juridical Sciences, p.6.

of the government's sectoral strategic programmes and compliance with the general interests of the state" (Art. 20). Once approved, urban planning documents, together with urban planning regulations, are enforceable in court (Art. 49(3)).

Urban and spatial planning activity at the national level is coordinated by the Government through the Ministry of Development, Public Works and Administration (MDLPA) in its capacity as the central specialised body for urban and spatial planning. Spatial planning is technically also carried out with input from other line ministries. Essentially, before spatial plans are integrated into the national spatial plan, they are first prepared by the line ministries.

Responsibilities of local government - level 2/County Council. Recently, Article 24 introduced a provision in Law 350/2001-2011, which indicates that the President of the County Council, through the Chief Architect, has the following responsibilities in the field of urban and spatial planning:

- ✓ ensures the preparation of territorial development strategies and submits them to the CJ for approval;
- ✓ ensures the preparation of spatial development plans;
- ✓ proposes the association, on the basis of the law, of the counties with the municipalities and cities concerned, coordinating the elaboration of zoning plans;
- ✓ recommends the planning plans and submits them to the CJ for approval, on the basis of the chief architect's technical expertise;
- ✓ acts to enforce and implement the approved provisions of the spatial plans.

The County Council ensures that the provisions included in the national, regional and zonal plans are taken into account in the county land use plans as well as in all public urban planning documents within the administrative and jurisdictional boundaries of the county. The County Council may require local councils to prepare or update urban or land use planning documents in order to implement the provisions included in the county's development programs.

The local council⁵ shall coordinate all urban planning activity carried out in the administrative-territorial unit and ensure compliance with the provisions included in the approved urban and spatial planning documents. The local council cooperates with and is supported by the county council in urban and spatial planning activities. More specifically, Article 27, introduced by the recent amendments to Law 350/2001, stipulates that the mayor, through the chief architect, has the following responsibilities in the field of urban planning:

- ✓ ensures the elaboration of territorial and urban development strategies and recommends them for approval to the local council (to the general council, in the case of the city of Bucharest);
- ✓ ensures the elaboration of urban plans on the basis of the competences of the local public authorities and under the law;
- ✓ recommends for approval by the Local Council, respectively the General Council of the Municipality of Bucharest, on the basis of the chief architect's technical expertise, the urban planning documentation, regardless of its initiator;
- ✓ takes actions for the application and implementation of the provisions of the urban planning documents.

⁵Bălan, E., *Instituții administrative*, București, Editura C.H. Beck, 2008, p.56.



In the process of urban planning activities, the local council also cooperates with companies and NGOs at national⁶, county and local level. Within the framework of urban planning tasks, the LC uses information from all areas of economic and social activity. Decentralised public services of ministries and other central bodies, companies, non-governmental organisations and bodies operating at local level provide the necessary information, free of charge, to support urban planning activities.

In the Romanian system, spatial planning documents⁷ are part of a unidirectional hierarchy of rules: planning documents at the lower level must be compatible with those at the higher level. The notion of compatibility is more flexible than the existing relationship of conformity between the PUG and the building permit, leaving a margin of appreciation to the "lower" level. In practice, the obligation of compatibility is more or less mandatory depending on the territorial level concerned. Collective service plans, which remain sectoral, must be taken into account in the documents drawn up by subsequent levels. However, the inter-municipal body remains free to develop its strategic vision for its area. Similarly, in the relationship between the zonal spatial plan and sustainable development, opportunities to deviate from compatibility are rare, given the different degree of structuring of the documents.

Drawn up on the initiative and responsibility of the state, the national spatial plan sets out the state's fundamental planning guidelines and the balance between the prospects for development, protection and enhancement of a territory. All these are highly spatialised strategic issues.

Linking county spatial plans with higher-level plans (e.g. the national plan) is made easier if the higher-level plans are simplified. The national spatial plan provides a good structure for this. Its individual sections are relatively schematic and provide major guidelines for lower level plans (e.g. national town system, major planned infrastructure, risk areas, protected areas, etc.). Such plans are not difficult to follow. Other higher level plans (e.g. regional and zonal spatial plans) are much harder to comply with. They usually contain extensive analysis, lots of data and an overabundance of maps.

To this can be added the fact that regional and zonal plans are non-directive, i.e. lower level plans do not necessarily have to correlate with them, although it is recommended that they do. At local level, the compatibility relationship between planning documents is more restrictive. The compatibility obligation has existed from the beginning and has primarily concerned the relationship between the general plan and the zonal plan: the former sets the main guidelines for the development of the urban locality, and the latter takes these guidelines into account when setting building rules on municipal and, in some cases, even inter-municipal territory.

Urban planning documents for towns (urban settlements) or communes (rural settlements) consist, according to Law 350/2001-2011, of the following spatial planning documents:

⁶Alexandru, D., 2018 „*Uneven Progress of the Participatory Democracy in Romania*”, ACTA Universitatis Lucian Blaga, vol.1/2018, p.151.

⁷Balz, V. and Zonneveld, W., 2015, "*Regional Design in the Context of Fragmented Territorial Governance: South Wing Studio*", *European Planning Studies*, 23(5),p. 887.



✓ The General Urban Plan (PUG), together with the Local Urban Planning Regulation, has a directive character and includes operational regulations, representing the legal basis for the implementation of development programmes and actions.

✓ The zoning plan (PUZ), together with the local planning regulations, is an urban planning instrument that contains certain regulations concerning certain territories (areas comprising several municipalities and/or cities - including metropolitan areas, areas extending beyond the administrative boundaries of counties or regions). Its role is to coordinate "the integrated urban development of certain areas that are characterised by a high degree of complexity or a pronounced urban dynamic" (Art. 47, par. 1). The same article stipulates that the PUZ shall ensure that integrated urban development programmes are linked to the PUG.

✓ The detailed urban plan (PUD) is an urban planning document resulting from an urban planning process concerning a specific territory. The scale, in this case, is smaller, with a regulatory character for a single parcel of land.

In 2011, the law on spatial and urban planning was amended due to pressure from the need to correlate regulations with European policies, and a new integrated spatial planning document was introduced for metropolitan areas.

The development strategies for metropolitan areas were therefore to form the basis for the PUGs of all the component localities, i.e. the central city and the peri-urban communes.

After 2011, when the adopted legal framework started to become effective, administrative practice revealed several limitations of this system. On the one hand, the relationship seemed to be too rigid⁸. General plans, which were very precise in their wording, were similar to "super-PUGs" that determined land use in an almost exhaustive way, without allowing sufficient flexibility for municipalities. On the other hand, the emergence of new concerns led to the multiplication of sectoral documents (PUZ, PUD, etc.): consistency between these documents was not guaranteed. The increasing complexity of an abundance of regulations with numerous exceptions has led to the development of disputes and a climate of legal uncertainty.

A comparison of these modes of vertical cooperation highlights the different advantages and disadvantages of each. The hierarchy of urban planning documents allows greater autonomy for the lower level of local government, which is not obliged to have its project validated by the higher level, at least as long as it is not confronted with the preparation of more spatially precise documents by the counties or the state. The merit of this approach is that it does not make the exercise of preparing planning documents more difficult, as the higher levels are involved only in an advisory role. Given that it is a cumbersome process, this advantage is not /to be ignored.

One of the basic principles that should be respected when organising spatial planning at regional level is the principle of subsidiarity. Essentially, it must be established what will remain the exclusive competences of central government, what will be shared with other administrative levels and what will be delegated. Where possible, functions should be devolved to the lowest

⁸Alexandru, D., 2021, *Flexibilitatea procesului decizional urbanistic în perioadele de recesiune economică. Modul în care autoritățile locale se adaptează la o nouă realitate*, comunicare prezentată în 2021 la Conferința Democrație, Constituție și Spațiu administrativ în secolul XXI.

administrative level that can perform them effectively. Planning should be as close to the people as possible.

It seems that zoning plans are the preferred place to develop spatial vision. While not entirely excluding public authorities at other levels, they are more part of a model of horizontal cooperation between authorities at the same level and non-hierarchical organisations. The relationship established is more flexible: it is a coordination between the policies of distinct actors contributing to the achievement of common objectives.

Under a common name, horizontal cooperation covers three dimensions⁹: territorial, sectoral and outreach to civil society. Territorial cooperation brings together public actors at the same level. It is easier to establish at the local level, where the grassroots level of communes is firmly anchored and where the practices of inhabitants form living pools, than at the regional level, an artificially created level at present.

Cooperation remains sectoral, even ad hoc, and the transition from cooperation agreement to the creation of a public institution has not taken place. The prospect of witnessing the construction of "regions", a vision promoted by the inter-community during the spatial planning debates, remains a plea.

Area planning projects have been more successful. In addition to territorial cooperation, they are intended to facilitate inter-sectoral cooperation, helping to implement the territorial projects they express. Complementarity between project approaches and planning documents started to emerge in the 2020s.

The affirmation of the strategic character of the zoning plans (PAZ) invited us to go further by overcoming the division between upstream (regulatory urban planning, which is effective in terms of framing but not in terms of development) and downstream (operational urban planning in the hands of the various actors and, more broadly, the implementation of projects that contribute to the realisation of the PUG). However, the PUG, which remains an urban planning document, does not include a programmatic section. Project-based approaches, which take the form of the implementation of a programme of actions in support of a territorial strategy, are intended to facilitate this diversity.

These area-based projects are also intended to link vertical and horizontal cooperation¹⁰. By defining priorities for action at the level of urban agglomerations, they should facilitate dialogue with public authorities at higher levels. The state, counties and cities are faced with a small number of interlocutors who represent concerted projects and who know their priorities.

Vertical and horizontal cooperation can be contradictory. The zoning plans are not statutory plans, which is why the correlation of other plans with them is only a recommendation. They can provide guiding principles and general directions, but are not binding on lower level plans. On the contrary, zoning plans should take into account statutory plans, even when they are prepared at a lower level. This example illustrates a difficulty where territorial rivalries come into play. The sources of tension between these two logics can be varied: territorial, but also political, linked to

⁹Geppert, A., 2001, " *L'aménagement du territoire, permanences et mutations*", Pouvoirs locaux, N°48, p. 126.

¹⁰Faludi, A., 2007, " *Territorial cohesion policy and the European model of society*", European Planning Studies, 15(4), p.581.



rivalries between people or simply the difficulty of reconciling the logics, working rhythms and procedures of several actors.

Horizontal cooperation also refers to the two other forms of cooperation that area projects achieve. On the one hand, intersectoral cooperation, which brings together actors from different fields or even different departments within a single institution, with the aim of coordinating sectoral policies. On the other hand, the term refers to the extension of cooperation beyond the circle of institutional actors to 'civil society', representatives of economic agents and citizens.

4 Conclusions

Expectations for improved governance sometimes have conflicting objectives. On the one hand, the aim is to increase the participation of stakeholders, civil society and public authorities working together. On the other hand, it is to improve the quality of decisions (better policy-making) and their implementation (better results). Resolving this tension - involving more actors while becoming more effective - raises the issue of reorienting policies and institutions. Our previous work has frequently brought us to the edge of these questions, in particular by studying the interaction between actors that takes place around the elaboration of a planning document or a territorial project.

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