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Piskorek, Kasia; Nadin, Vincent

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3. The meaning of spatial planning in the law of European countries

Kasia Piskorek and Vincent Nadin

INTRODUCTION

One of the most difficult things for any student of planning is to pin down the meaning of their subject: urban planning, spatial planning, city and regional planning, and other variants. The literature abounds with alternative understandings of the notion of planning. Chapter 1 of this book explains our position on the social construction of the meaning of planning and its embeddedness in the prevailing social model, culture and language. Furthermore, we recognise that the meaning of planning in society is a political question, it reflects power play over decision-making about land use change. As planning is socially constructed, then it is inevitable that there can be no one idea of planning. We should expect its meaning and practice to vary from place to place. There are many different ‘plannings’, and the variety of ideas increases in different places and languages. And ideas about planning evolve, sometimes dramatically as in the former communist countries of Europe (Dąbrowski and Piskorek, 2018; Pallagst and Mercier, 2007), but generally more slowly over the long run, for example, as scientific rationality has given way to communicative rationalities in the West (Taylor, 1998). Whilst many authors consider explicitly what they mean by planning for the context about which they write, others offer only a generic definition. There are of course fundamental common themes in explaining planning such as ‘the design of a future course of action ... [and] the collective management of urban development’ (Fischler, 2012, p. 108). We use the term ‘spatial planning’ to embrace both land use regulation and the coordination or cross-fertilisation of the territorial impacts of sectoral policy. However, in comparative studies the varying meaning of planning from place to place is the very object of study.

All countries experience a continual unfolding of ideas under the influence of changing societal conditions, as a result of exchanging with and learning from other places, and as competing theories of planning and its role are debated (Stead et al., 2016). Some prevailing social norms on planning become

codified in law. The law, in turn, becomes the bedrock for the operation of planning, and provides a measure of continuity and coherence where there are competing ideas about planning. This is not to say that the law provides the definitive understanding of planning in any place, but that we should consider the legal definition alongside professional views and empirical observation of how planning operates in practice.

The ESPON (European Observation Network for Territorial Development and Cohesion) COMPASS (Comparative Analysis of Territorial Governance and Spatial Planning Systems in Europe) projects outlined in Chapter 2 provided an opportunity to add a perspective to the literature on the meaning of planning by investigating the formal understanding of planning in national, and where necessary, sub-national laws. The objective of this part of the study was to identify the extent of shared or distinctive understandings of planning in Europe as revealed in the formal definitions and terms used to explain planning in the law. This chapter explains the findings of that investigation for the 32 European countries which were part of the project. When we say ‘the law’ we mean the binding rules imposed and enforced by government and interpreted by the courts. The law frames the scope of planning, it establishes competences, rights and duties, and is a focal point for the power struggle over spatial development as competing interests seek to reform the law to protect or deny stakes in the planning system.

This comparative review of terminology is a modest contribution to the many ways that planning can be understood in Europe, and it is infused with substantial caveats, as we explain below. Identification of definitions or key terms that reflect understanding is a challenge in many countries. However, the law is obviously a fundamental reference for planning practice in any country. The law and its terminology arise from the codification of accepted rules and norms of behaviour, so it reflects local culture. Studies that have clustered or classified planning systems into general types have invariably used the legal framework or legal families (Zweigert and Kötz, 1998) as the main criterion or an input for classification, as explained in Chapters 2 and 12. Here, we go beyond the influence of the legal system on spatial planning to examine to what extent and how governments define planning in the law, and what is common between the definitions. The next section briefly considers the significance of law for spatial planning and in Europe. We then explain the method by which the data were collected and analysed. Findings are set out for the name of spatial planning in each country, the terms and definitions that are used to define spatial planning in the law, and what the law says about planning’s goals and scope. The conclusion draws out the common themes across European law and reflects on the findings in relation to the families of law.

SIGNIFICANCE OF LEGAL DEFINITIONS OF PLANNING

Law is a set of principles and binding rules to manage social conduct and to pursue political objectives (Harris, 2015). In the law, government confers legitimate authority on institutions to enforce rules and to intervene in the way public bodies, private enterprises and citizens act in society. The law lends legitimacy to planning, it empowers planning authorities and agencies, it assigns duties, and makes aspects of planning a mandatory obligation on the state to perform. Law provides principles and rules for the operation of spatial planning, such as establishing criteria and procedures for regulating land use change; defining the form, content and scope of planning instruments; and providing public safeguards to protect citizens from unreasonable exercise of power by public or private actors. Some planning instruments become part of the law and thus are binding on all. What we describe here is public law, that is, law which both gives and limits the authority of public bodies to interfere in the actions of private individuals. We do not consider the role of private law in land development which protects the interests of one private individual against another (see Needham, 2006 on how public and private law influence land use).

Law to a greater or lesser degree codifies the notion of spatial planning in its rules and definitions. How the law defines planning is therefore an essential reference point for comparing the meaning of planning. ‘As Booth argues, the law has shaped spatial planning, and its modes of thought and processes have been transferred to and internalised by planning practice’ (Booth, 2016, p. 359).

Spatial planning law stands between public and private interests. Public law gives individuals rights over land, but also empowers public bodies to restrict those rights, for example to change land and property use in the public interest, as defined by government policy. At the same time, it also protects private property interests from arbitrary government intervention and offers routes of redress through the courts. Alterman and Pellach (2021) exemplify these tensions in their cross-national study of public and private interests competing in the coastal zone. They conclude that although property rights are ‘extremely obstinate to change’ (p. 438), planning law has introduced new instruments to strengthen the capacity of public bodies to protect the coast.

The law is binding, but it is not unambiguous, and invariably requires interpretation by the courts, especially when challenged. The definition of the nature and scope of planning is difficult to specify, as are the precise powers given to government bodies and others. Planning law often employs imprecise terms such as ‘reasonable’ or ‘generally’ (Levy, 2016), and it over-

laps with property, environment and other law, and not always successfully. Clarification of the law sometimes involves the creation of more law, and as the acts and decrees multiply so does the potential for contradiction and ambiguity (Booth, 2016). Clarification or further specification is also achieved through the making of ‘soft law’. In European Union (EU) legislative process soft law includes ‘recommendations, notices, resolutions, conclusions, guidelines, declarations, programmes, codes of practice etc ... [that is] Community legal instruments that have not been attributed legally binding force’ (Senden, 2004, p. 23). The research reported here has concentrated on legally binding Acts. Any other approach would be confusing, as the status of non-legally binding statements will vary greatly from country to country. Instead, we stress the difference between law and policy. Law is binding, policy is not. There are many types of law and policy, but the overriding distinction is that there is no discretion to deviate from the law, as it is interpreted by the courts. In some cases, policy is made and then it is enacted as law, as in many examples of legally binding zoning instruments. Essentially, making an exception to law requires a change in the law, whereas making an exception to policy (including soft law) does not.

There are considerable limitations on the power of the law. Whatever legal rules are set, they must be enforced. In some countries there is considerable leeway given to public authorities, for example, in producing the legally mandated (statutory) plans or ensuring decisions are in line with legally binding plans. Across the world, ‘Illegal development is rampant and may include large clusters of housing or major projects – even commercial ones – without planning permission’ (Alterman and Pellach, 2021, p. 432). In many European countries it is not common, but in others it is readily apparent (among many examples, see Chiodelli, 2019; Wagner, 2016). Government may turn a blind eye to non-conforming informal or illegal practices, especially where the law (sometimes the plan) is difficult to reform, and the law is out of step with general social norms and standards. The law may conflict with local conditions, but ‘to be effective, planning law must be consistent with existing institutions at the local level’ (Buitelaar et al., 2011).

Poor enforcement of the law (non-conforming development in planning terms) may be understandable, development and planning may occur outside the formal legal framework to meet the basic needs of citizens, or to allow for non-statutory planning actions that offer more appropriate and practical action than that given in the law. Nevertheless, where actions are taken outside the law, they are illegal. Alterman and Ines warn us to take care not to use ‘informal’ as a synonym for ‘illegal’, as ‘this delegitimises planning law and the rule of law in general’ (Alterman and Ines, 2020, p. 156). Illegal actions undermine trust in the law and the credibility of spatial planning. None of this diminishes

the importance of the fundamental role played by the law in defining the scope and goals of planning.

At the root of the challenges of making law that is efficient and fair is the way that it is written, the definition of its meaning, scope and goals. Within planning law there will be consideration of the meaning of planning. In some systems the law may give a formal definition in one part of one Act. It may define in detail the nature and purpose of planning. In other systems the law may provide only a broad framework that gives more scope for interpretation. In many systems a definition will be spread over numerous statements in different Acts, or there will be no attempt at all to define planning, and the implicit meaning will need to be inferred from a wide reading of the law.

LEGAL FAMILIES

The general orientation of the law towards planning, and the way that planning is defined, will be influenced by the type of legal system of the country. Zweigert and Kötz (1998) proposed a typology of legal families that is widely used in comparative law studies. Five of the families are relevant to Europe: the Romanistic legal family (the French Civil Code), the Germanic legal family (Germany, Austria and Switzerland), the Anglo-American legal family, the Nordic legal family, and the socialist legal family (the others are the Far East, Islamic and Hindu families). The criteria for grouping legal systems into families include ‘the level of codification, differences in legal style and mentality, the effectiveness of the law and the law’s underlying rationales’ (Siems, 2016, p. 582). Although the approach is, in the authors’ own words, only ‘a rough and ready device’ (quoted in Siems, 2016, p. 580) and is much less relevant for former communist countries (the reference to a socialist family has been dropped in later editions of the text), the form of legal family is unquestionably significant in how nations establish the legal framework for spatial planning.

Moreover, the legal family has been the primary consideration in the classification of planning systems in cross-national comparative planning in Europe. Early studies by Davies et al. (1989) and Newman and Thornley (1996) are both largely based on differences in planning law and administration that arise from legal families (Nadin and Stead, 2013). The objective and methods of these studies are explained in Chapter 2, and Chapter 12 explains the resulting classifications in more detail.

The primary distinctions made by legal families are between the continental civil law systems based on Napoleonic or Scandinavian traditions, and the English common law family. The legal style of the continental legal families is to create abstract rules and principles, whilst ‘the English common law system ... does not provide a complete set of legal rules in advance but rather the law has been built up on a case-by-case basis as decisions of the courts are

recorded' (Nadin and Stead, 2013, p. 1546). The first is about systematising and codifying formal rules from first principles in advance of decisions being made that are binding; the second is about creating legal rules from precedent, where decision-makers have more discretion with a minimum of binding rules. The differences between legal families certainly shape that way that planning operates, but it should not be overemphasised. In practice, in the civil law system planning instruments become part of the law and are therefore binding, whereas the common law system creates planning instruments that give decision-makers discretion to vary from rules set out in policy (Cullingworth and Nadin, 2006; Steel and Ruming, 2012). Nevertheless, it is not unreasonable to expect that there will be a different approach to terminology and definition of planning between countries according to the legal families.

METHOD

The comparison of the legal terminology of planning in Europe draws on findings from the ESPON COMPASS project. The overall research method for the project is given in Chapter 2. In summary, data were collected through two rounds of questionnaires issued to appointed country experts who consulted local documentation and other experts as required. The collection of data on terminology followed an inductive and descriptive approach, involving open-ended questions to collect data, giving freedom to the experts to respond without guidance on categories from the researchers. Whilst the method cannot be accurately described as grounded theory, we followed the general principles of that approach, steering 'a practical middle ground between a theory-laden view of the world and unfettered empiricism' (Zamani and Babaei, 2021, p. 80). That is, we started with a simple framework, but devised the categories iteratively from the data. The resulting overall framework for comparing the legal meaning of planning is given in Figure 3.1 and is discussed below.

Country experts were asked to list the main formal legal terms for spatial planning in the country, that is, the terms used in the law, together with a short explanation including any definition that is given in the law. We accepted that some country experts would have to submit variations of terms arising from sub-national legislation, or other official languages. This would apply to federal or regionalised government structures where law may be made at a sub-national level. For example, in Austria the nine federal provinces have independent laws on spatial planning, and the term is not universally defined for the whole country. In cases such as this, the country experts were asked to use their professional judgement to report on the typical key terms that are used. A second question asked the experts to list other key terms that are used to describe spatial planning in the country. This provided a broader understanding of terms used to define planning in communities of practice and the

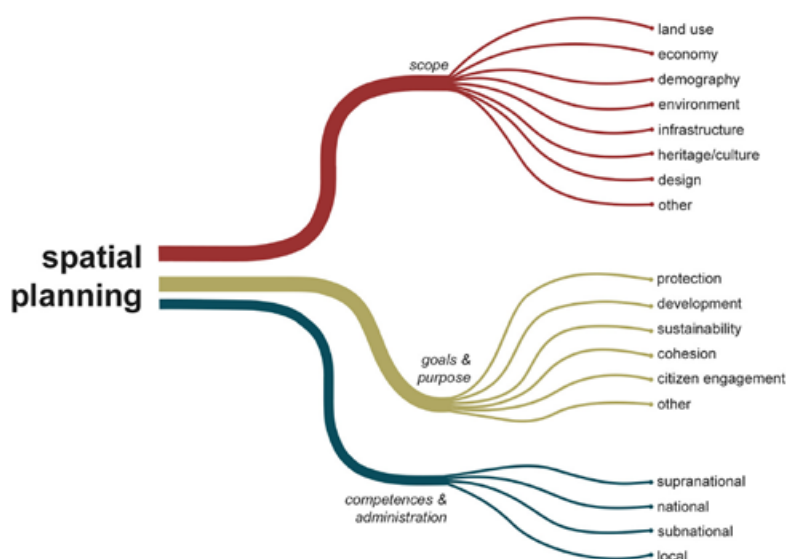


Figure 3.1 Categories of terms used to define planning in law

academic community. In all cases the country experts had to translate the terms into English, with an explanation where needed.

There are notable limitations of the method. For all countries, experts had to exercise judgement, and some found it difficult to specify the key terms for spatial planning in the law. In some countries it is because the law does not provide a specific term or definition of spatial planning, and its meaning is taken for granted. The meaning of spatial planning must be inferred from reading an Act or Acts as a whole. In others, many terms are given within the notion of spatial planning, some of which are synonyms, whilst others denote different things. In some cases, the meaning of legal terms for spatial planning is elaborated in policy statements or guidance rather than the law. These limitations are the stuff of cross-national comparison. We pay careful attention to them in our analysis, whilst seeking the benefits of comparing (Sykes et al., 2015).

These limitations are multiplied because of the need to translate into English for comparison, and in some cases a transliteration from the original language. English is dominant in international research. A *lingua franca* has great benefits, but also weaknesses (Booth, 2011). Chapter 2 drew attention to the conceptual and practical difficulties of working across multiple languages, and this is particularly acute when we engage with the law. We are often reminded of the need to acknowledge that a limitation of ‘research undertaken in other

cultures is the risk of misinterpreting the events and processes that are being witnessed because of the way in which they are described, and the descriptions translated' (Booth, 2011, p. 25). The translation is most often into English, and therein lies further difficulty. Müller (2007, p. 211) argues for the specific problematisation of language in law to reveal, as he puts it, 'the hegemonic fixations'. In this work on legal terms, we accept that the equivalence in meaning in comparing can only be partial, it is not fixed. We follow the practical guidance of Müller, that is, to make translations visible, and to problematise the way language is used (Booth, 2015). The terms we summarise here are given both in the home language and in the English translation, and a brief explanation is also given to reflect to some degree the value of the original word. The comparison aims 'to reflect the sense and meaning of foreign language terms as they are employed in planning rather than being simply literal translations of words' (Sykes et al., 2023, p. 93). The findings should be read with these caveats in mind. Experts had to select and interpret from the material available.

Our framework for the initial analysis of the terms, definitions and explanations provided by the experts followed five questions. First, we selected the primary definitions of planning given in the law of each country. Many countries have more than one term and some have terms in different languages. Second, we consider the extent to which the law defines planning in substantive and/or procedural terms. By 'substantive' we mean the actual content of planning and its concrete goals such as achieving sustainability or shaping land use change. By 'procedural', we mean: does the law specify the nature of the policy and decision-making processes, such as establishing the instruments, procedures and competences by which planning decisions are made? Like Faludi (1973), who first proposed this distinction in terms of 'theory in' and 'theory of' planning, we are not suggesting that the two are independent of each other or should be seen as separate, simply that we find the distinction helpful in clarifying ideas about how law explains spatial planning.

Third, we ask about the substantive goals for planning. We examine what the law says about what spatial planning is supposed to achieve. Chapter 1 outlined the way that international agendas are calling for a strong role for planning on critical issues, notably sustainability, climate change and shared prosperity. Plans and policies at all levels will define topics of concern, but to define the scope of planning in national and regional law is of a fundamentally different order. For example, to establish a legal requirement for planning to address the risks of climate change would greatly strengthen the legitimate scope for spatial planning policy and action on the climate emergency.

Fourth, we ask: what does the law say about the scope of planning? Does it concern land use only or does it have a role in other topics and sectors of policy as part of its remit? This reflects the explanation in Chapter 1 of the distinction between urban or physical planning where the remit is to regulate land use,

and spatial planning where the remit is widened to seek the coordination or cross-fertilisation of sectoral policies that are important in shaping spatial development. We are not suggesting here that there will necessarily be a step change from urban planning to a spatial planning approach, but rather that the law will give a certain scope to planning action that varies, from narrowly concerned with regulating the physical use of land, to a wider remit in enabling collaborative placemaking.

Fifth, in the context of evidence of reassignment of competences for spatial planning across levels of government in Europe, as explained in Chapter 4, we ask about planning procedure and competences for planning across levels of government and the locus of power. Where do the main competences for planning reside? This is discussed more fully in Chapter 4.

FINDINGS

Spatial Planning Terms

Experts for all the 32 countries included in the COMPASS project submitted answers to the request for the main legal terms for spatial planning as shown in Table 3.1. The answers were submitted in 25 languages with a translation of the terms into English with transliteration where needed.

Numerous legal terms were submitted for some countries, but one has been selected for the summary list in Table 3.1, where necessary in consultation with the country expert. In some countries the competence for planning law rests at the sub-national level, therefore there may be different laws for the constituent states or regions. In some cases, this includes differences in the way that planning is defined. We mentioned above the separate laws in each of the nine federal provinces in Austria, which also includes a different definition of spatial planning. In the United Kingdom (UK), planning law is devolved to the four nations. One effect is that the nations are able to develop a distinctive approach. For example, in Wales, spatial planning is aligned very closely with the law on the well-being of future generations.¹ Another complication is that it is common for countries to have variants of key terms for different types of planning activity or planning at the various levels of government. For example, in Germany, the main term used is *Raumordnung*, and this becomes *Bundesraumordnung* at the federal level, *Landesplanung* for the states, and *Regionalplanung* for the regions.

Experts for Belgium and Switzerland argued that more than one legal term should be recorded, as they are in use in these countries where there are multiple official languages. We note that many countries have more than one language in common use. Planning terms are commonly translated into these other languages, but they will not be official for legal purposes.

Table 3.1 Main terms for spatial planning in 32 European countries

	Country	Term in official language	Approximate literal translation
1	Austria	AT <i>Raumordnung</i>	Spatial planning
2	Belgium	BE <i>Ruimtelijke ordening</i> (nl) <i>L'aménagement du territoire</i> (fr) <i>Raumordnung</i> (de)	Town and country planning
3	Bulgaria	BG <i>Пространствено планиране</i> (<i>Prostranstveno Planirane</i>)	Spatial planning
4	Croatia	HR <i>Prostorno uređenje</i>	Spatial (physical) planning
5	Cyprus	CY <i>Πολεοδομικός και Χωροταξικός</i> <i>Σχεδιασμός</i> (<i>Poleodomia kai</i> <i>Chorotaxia</i>)	Town and country planning
6	Czech Republic	CZ <i>Územní plánování</i>	Town and country planning
7	Denmark	DK <i>Planlægning</i>	Planning
8	Estonia	EE <i>Ruumiline planeerimine</i>	Spatial planning
9	Finland	FI <i>Suunnittelu</i>	Planning
10	France	FR <i>Aménagement et développement durable</i> <i>du territoire</i>	Spatial planning and sustainable development
11	Germany	DE <i>Raumordnung</i>	Spatial planning
12	Greece	EL <i>Χωρικός σχεδιασμός</i> (<i>Chorikos</i> <i>schediasmos</i>)	Spatial planning
13	Hungary	HU <i>Területi tervezés</i>	Territorial planning / spatial planning
14	Iceland	IS <i>Landsskipulagstefna</i>	National planning policy
15	Ireland	IE <i>Planning and development</i>	Planning & development
16	Italy	IT <i>Governo del territorio</i>	Territorial government
17	Latvia	LV <i>Teritorijas plānošana</i>	Territorial planning
18	Liechtenstein	LI <i>Landesplanung</i>	Spatial planning at the national level
19	Lithuania	LT <i>Teritorijų planavimas</i>	Territorial planning
20	Luxembourg	LU <i>Aménagement du territoire</i>	Spatial planning
21	Malta	MT <i>Ippjanar ta' l-izvilupp</i>	Development planning
22	Netherlands	NL <i>Ruimtelijke ordening</i>	Spatial planning
23	Norway	NO <i>Planlegging</i>	Planning
24	Poland	PL <i>Rozój zrównoważony</i>	Sustainable development
25	Portugal	PT <i>Ordenamento do território</i>	Spatial planning
26	Romania	RO <i>Amenajarea teritoriului</i>	Spatial planning
27	Slovakia	SK <i>Priestorové plánovanie</i>	Spatial planning
28	Slovenia	SI <i>Prostorsko načrtovanje</i>	Spatial planning

	Country		Term in official language	Approximate literal translation
29	Spain	ES	<i>Ordenación del territorio</i>	Spatial planning
30	Sweden	SE	<i>Planläggning</i>	Planning
31	Switzerland	CH	<i>Pianificazione del territorio</i> (it) <i>Aménagement du territoire</i> (fr) <i>Raumplanung</i> (de)	Spatial planning
32	United Kingdom	UK	Town and country planning	Town and country planning

Note: fr = French; de = German; it = Italian; nl = Dutch.

Source: Nadin et al. (2018), © ESPON.

Definitions of Spatial Planning

The country experts were asked to give a short explanation of the main term for spatial planning, including any definition given in the law. A helpful explanation of the meaning of the definition and term(s) was given for all countries where needed, except Liechtenstein. We have summarised the information provided by the experts in Table 3.2; we are responsible for any deficiencies in the explanation. The full data on the responses on key terms is available in Supplementary Volume 2 on the Phase 1 Questionnaire.² Examples of terms and definitions from specific countries given below are taken from Volume 2.

Many experts reported that the law contained no definition of planning, and little explanation of what planning means. In some cases, whilst there is no formal definition, the law sets goals for planning. For the countries for which experts were able to provide terms, explanations and definitions, there is much variety.

Analysis of Definitions and Terms

The findings for the content of the definitions by key terms are summarised in Figure 3.2. The first two columns indicate whether planning is defined in procedural or substantive terms, or both. Most legal systems explain planning with reference to both substantive and procedural notions. Eight countries tend more towards the procedural definition of planning. An example of a country taking a predominantly procedural view of planning in the law is the UK, or more precisely, England. Planning law in England gives no definition of town and country planning, but establishes planning authorities, allocates duties and competences, and sets out the broad procedures by which plans and policies are produced, including the rights for citizens to be engaged in planning. This reflects the legal family in the UK: common law. The general approach to law-making in the UK is to provide a framework only. There is a reluctance to set binding rules and to tie the hands of decision-makers before decisions are needed. However, there are policy statements which set out the objectives and

Table 3.2 Definitions of spatial planning in 31 European countries

Country	Main term	Definition or explanation
Austria	<i>Raumordnung</i>	Term mostly used in the law to describe the formal act of spatial planning comprising land use planning, development planning and policy, at the local, regional and national levels. <i>Raumplanung</i> is also used to describe the formal Act of spatial planning, and the practice/implementation process of spatial planning.
Belgium	<i>Ruimtelijke ordening</i> (nl) <i>L'aménagement du territoire</i> (fr) <i>Raumordnung</i> (de)	There is no precise definition of planning, but objectives are given. In Flemish law planning 'is focused on sustainable spatial development in which space is managed for the benefit of the present generation without compromising the needs of future generations. Spatial needs of various social activities are weighed up against each other simultaneously.' It considers spatial capacity, environmental impact and cultural, economic, aesthetic and social implications. In this way it strives for spatial quality. In Walloon law planning 'meets or anticipates the social, economic, demographic, energetic, patrimonial, environmental and mobility needs of the community in a balanced way, taking into account, without discrimination, territorial dynamics and specificities, as well as social cohesion'.
Bulgaria	<i>Пространствено планиране</i> (Prostranstveno Planirane)	'Spatial development planning includes the development and updating of documents ... at national and regional level which define the strategy for integrated spatial development and take into account the territorial potential and the principles of sustainable development'. The system of documents for spatial development planning, the scope and the content, as well as the conditions and procedure for granting, preparation, adoption and implementation of the concepts and schemes for spatial development, are defined.
Croatia	<i>Prostorno uređenje</i>	Spatial (physical) planning provides the conditions for use, protection and management of the space as a particularly valuable and limited national asset, and creates the prerequisites for social and economic development, environment and nature protection, building excellence and rational use of natural and cultural goods. The aims of spatial planning, <i>inter alia</i> , are balanced spatial development in line with economic, social and environmental preconditions; spatial sustainability; connection of the territory of the state with European systems of spatial planning; taking care and development of regional spatial characteristics; national safety and protection of the state from natural and other disasters.

Country	Main term	Definition or explanation
Cyprus	<i>Πολεοδομικός και Χωροταξικός Σχεδιασμός (Poleodomia kai Chorotaxia)</i>	Term used in the law to describe the spatial planning system at national and regional levels. The law gives no particular definition of town and country planning. It focuses on the establishment of planning authorities and their duties, and the form and procedures for producing planning documents.
Czech Republic	<i>Územní plánování</i>	The law does not explicitly define town and country planning but it governs the objectives and tasks of town and country planning, the system of planning authorities, planning instruments, the process of production of plans, the assessment of the impacts on area sustainable development, decision-making, relations with environmental impact assessment, conditions for construction, land development and for preparation of the public infrastructure, records of planning activity and qualification requirements for planning activity.
Denmark	<i>Planlægning</i>	This term is used in different variations in the legal framework. Law defines national planning as binding instructions, guidelines and intervention in local planning on subjects of international, national or regional interest; and mandatory comprehensive municipal land use planning as summarising and giving form to political objectives for the development of the local authority.
Estonia	<i>Ruumiline planeerimine</i>	The Planning Act aims to create, through spatial planning, environmentally sound and economically, culturally and socially sustainable development, the preconditions that are necessary for democratic and long-term and balanced spatial development that considers the needs and interests of all members of the Estonian society.
Finland	<i>Suunnittelu</i>	No definition is given in the law, but the term refers broadly to the use of land (or more literally, areas). Planning has been generally understood just as land use planning in a narrow sense.
France	<i>Aménagement et développement durable du territoire</i>	Policies aiming to reduce territorial disparities, to foster economic development, and to ensure sustainable development. The Code de l'Urbanisme defines the activities for all levels of government on the use of space, including: to develop the living environment; ensure employment, services and transport conditions for the resident and future population; manage the land thriftily; reduce greenhouse gas emissions and energy consumption; save fossil resources; protect natural environments and landscapes; preserve biodiversity, notably through the conservation, restoration and creation of ecological continuity; ensure public safety and sanitation; promote balance between urban and rural areas; to rationalise the demand for travel; and contribute to the fight against climate change.

Country	Main term	Definition or explanation
Germany	<i>Raumordnung</i>	Refers to the comprehensive, supra-local and superordinate tier of planning the structure and development of space (<i>Raumordnungsgesetz</i>). It is an umbrella legal term addressing spatial planning at all spatial levels above the local level, which is complemented by specific terms for the federal level, <i>Bundesraumordnung</i> , the state level, <i>Landesplanung</i> , and the regional level, <i>Regionalplanung</i> . The Act refers to <i>Raumentwicklung</i> , the guiding vision of spatial planning (in legal terms) for sustainable spatial development, and the mandate to dynamically develop, and not only statically order space.
Greece	<i>Χωρικός σχεδιασμός (Chorikos schediasmos)</i>	Planning, at national or regional level, which sets the medium-term or long-term objectives for spatial development and organisation, as well as the guidelines, and where appropriate, the necessary regulations for the shaping of areas for residential, productive and business activities, and protection. The law also defines regulatory spatial planning which determines the rules for land use and construction, and the overall land development in urban areas and the countryside.
Hungary	<i>Területi tervezés</i>	The law refers to development plans which consider socio-economic issues and mandatory land use plans which regulate land use and protect the natural and built heritage. These plans sit within the broader comprehensive concept of regional development (<i>Területfejlesztés</i>) which covers spatial policy, territorial planning, the respective institutional system and regulations, as well as the instruments. Spatial development ensures the territorial integration and harmonisation of sectoral and horizontal policies and their implementation, which is closely related to EU cohesion policy.
Iceland	<i>Landsskipulagstefna Skipulag</i>	National planning policy coordinates official plans on transport, regional policies, conservation, energy efficiency, and other fields which include land use. Municipalities should take account of national planning policy when preparing or changing development plans and coordinate with it. The law provides for regional development plans in the capital area, municipal plans on land use, rural settlement, transport and services, and local plans on settlement structure and permits.
Ireland	Planning and development	Planning is 'to provide in the interests of the common good, for proper and sustainable development', although 'sustainable development' is not defined. It provides for regional economic spatial strategies, development plans and local area plans, development management and consent, and requires consistency with the national spatial strategy.

Country	Main term	Definition or explanation
Italy	<i>Governo del territorio (formerly urbanistica)</i>	Reform of the Constitution in 2001 changed the field of planning from <i>urbanistica</i> to <i>governo del territorio</i> , which indicates a wider approach to spatial dynamics and dismisses the old term in law, though confirming the central competence of the local level in spatial planning. <i>Urbanistica</i> concerns the regulation of the use of the territory, including safeguarding and transformation of the land as well as protection of the environment. The law also provides for strategic spatial planning for the metropolitan cities and regional landscape planning.
Latvia	<i>Teritorijas plānošana</i>	The law aims to ensure that the development of the territory raises the quality of the living environment; the sustainable, efficient and rational use of the territory and other resources; and promotes targeted and balanced development of the economy. The principles of territorial planning are sustainability, succession, equal opportunities, continuity, openness, integration, diversity and mutual coherence.
Lithuania	<i>Teritorijų planavimas</i>	Territorial planning aims at sustainable territorial development and includes the establishment of land use priorities; measures of environmental protection, public health, heritage protection; creation of residential areas and manufacturing, engineering and social infrastructure systems, creating conditions for regulation of employment and development of activities of the resident population and reconciliation of public and private interests. Law makes provision for two forms of planning: complex planning of territories defining development locations and priorities for use and protection, involving national, municipal and detailed plans; and special territorial planning involving measures for the use, management and/or protection of territories and protected areas.
Luxembourg	<i>Aménagement du territoire</i>	Organising the national territory to ensure that development respects the particularities and resources of each region with the goal to ensure high quality of living by sustainably developing the territory, respecting different needs. It is combined action of the state and the municipalities in developing while protecting landscapes, valorising the common regional resources and coordinating rational land use. The law also provides for integrated territorial development and municipal planning.
Malta	<i>Ippjanar ta' l-izvilupp</i>	Defined in the law as a planning system which shall have sustainable development as its main objective.

Country	Main term	Definition or explanation
Netherlands	<i>Ruimtelijke ordening</i>	To guide spatial development in such a manner as to stimulate a desirable outcome for the community. Spatial quality is the most import meta-concept used within spatial planning discourse, though current law departs from this notion. The law also provides for 'environment and planning policy'. There is no specific definition, but it integrates different policy areas regarding the physical environment, such as noise pollution, air quality, nature conservation, spatial planning, water quality and management, transport and heritage.
Norway	<i>Planlegging</i>	There is no clear definition in the law, but it is generally a collective term, and broader in relation to more detailed land use. The law also provides for society/community planning, meaning both broad socio-economic planning and narrow physical planning to support needs.
Poland	<i>Rozój zrównoważony</i>	Spatial planning and land development should be understood as any process that determines the shape of space, that is, in particular, the processes and principles of spatial planning by regional or local authorities and governmental bodies, and the scope and manner of dealing with land allocation for specific purposes, rules of their land use and development. The purpose of planning is to achieve spatial order, a configuration of space which creates a harmonious unity and considers in a structured relation all the conditions and functional requirements, socio-economic, environmental, cultural, as well as compositional and aesthetic, and in accordance with the principles of sustainable development.
Portugal	<i>Ordenamento do território</i>	To attain the goal of territorial cohesion (reducing regional asymmetries and providing access to equal opportunities) and appropriate use of land, particularly to arrest the tendency for excessive and arbitrary transformation of rural land into urban. It should also counteract urban speculation, excessive growth of urban perimeters, and uncontrolled increase of house prices.
Romania	<i>Amenajarea teritoriului</i>	The planning and public policy activity that reflects in spatial terms all the main sectoral public policies at national or regional level. The law also provides for strategic territorial development and visions; a hierarchical ranking of settlements to guide allocation of functions; and local regulation on development rights.

Country	Main term	Definition or explanation
Slovakia	<i>Priestorové plánovanie</i>	Combines in a specific territory: urban planning, economics, environment, ecology, and heritage. Directs traditional land use planning towards strategic objectives. Addresses the spatial arrangement and functional use of land; coordinates activities which influence the environment, ecological stability, cultural-historical values, and landscape in accordance with sustainable development, creating conditions for harmony regarding reaching ecological balance and ensuring sustainable development, and protection of natural, civic and cultural values.
Slovenia	<i>Prostorsko načrtovanje</i>	The law defines spatial planning as 'an interdisciplinary activity with which interventions into space and spatial arrangements are planned on the basis of development policies which take into account the public benefits of environmental protection, nature conservation, the protection of animals and natural goods, protection of property and cultural heritage'. The law provides for the national spatial plan and municipal planning.
Spain	<i>Ordenación del territorio</i>	Planning law is a competence of the autonomous communities, which have responsibility for developing their own land use regulations, including land and landscape management; planning tools; measures to promote balanced territorial, demographic, socio-economic and environmental development; and land and housing policy. The general approach to territorial development involves territorial balance, endogenous development and sustainable development.
Sweden	<i>Planläggning</i>	Defined in the law as the activity to develop a regional plan, a comprehensive municipal plan, a detailed plan or area regulations. It is further noted in the law that planning must consider natural and cultural values, environmental and climate aspects, as well as inter-municipal and regional conditions. It shall further promote an appropriate structure and an aesthetically pleasing design of buildings, green areas and communication infrastructures; a good living environment that is accessible and useful for all social groups; a long-term management of land, water, energy and raw materials; economic growth and effective competition; and finally, housing construction and development of the housing stock.

Country	Main term	Definition or explanation
Switzerland	<i>Pianificazione del territorio</i> (it) <i>Aménagement du territoire</i> (fr) <i>Raumplanung</i> (de)	Not defined in the law, except that the Confederation shall lay down principles on spatial planning which are binding on the cantons, serve to ensure the appropriate and economic use of the land and its properly ordered settlement, and should be considered by cantons in fulfilling their duties. The law aims to ensure that land is used with moderation and that building areas are separated from non-building areas. Authorities must coordinate their activities which affect land, and order the settlement for a harmonious development of the country, considering natural conditions, as well as the needs of the population and the economy.
United Kingdom	Town and country planning	The law does not define or set objectives for planning, but establishes planning authorities, their duties and competences, and the form of planning documents and the procedures by which they should be produced. All four countries, also known as the devolved administrations, of the UK use this term. Planning policy for England states that the purpose of planning is to ‘contribute to the achievement of sustainable development’ involving ‘net gains’ across three interconnected objectives: economic, social and environment.

Notes: fr = French; de = German; it = Italian; nl = Dutch. The quotations are from specific Acts, but the citations are omitted here for ease of reading. The full data are available in Additional Volume 3 of the ESPON COMPASS Final Report (ESPON, 2018). No explanation was given for Liechtenstein.

Sources: Based on information provided by country experts listed in the Acknowledgements section of this book, and in Additional Volume 3 of the ESPON COMPASS Final Report (ESPON, 2018). In some cases, the main term was selected by the authors from several terms offered by country experts. Similarly, the definitions are in many cases selective and summarise the main points.

scope of planning, particularly the need to deliver on the economic, social and environmental dimensions of sustainable development. From the perspective of countries in the civil law families, this may seem to be an empty legal definition, providing only a set of institutions and procedures. Other countries also define planning in procedural terms, but also indicate substantive goals.

Goals of Planning

Most countries address in the law, to some extent, the goals or purpose of planning even where no definition of planning is given. Understandably, there is some overlap between the explicit expression of a goal for planning and the scope of planning which may infer objectives. The most common explicit goal mentioned is to steer or regulate land use and development (28 countries) and/or to pursue sustainable development (18), followed by the protection

Country			Goals						Scope							
	Mentions procedural aspects	Mentions substantive topics		Cohesion	Development (growth)	Sustainability (and balance)	Protection	Citizen involvement		Land use regulation	Economy	Heritage	Demography	Environment & Agriculture	Infrastructure	Design
Austria																
Belgium																
Bulgaria																
Croatia																
Cyprus																
Czech Republic																
Denmark																
Finland																
France																
Germany																
Greece																
Hungary																
Iceland																
Ireland																
Italy																
Latvia																
Liechtenstein																
Lithuania																
Luxembourg																
Malta																
Netherlands																
Norway																
Poland																
Portugal																
Romania																
Slovakia																
Slovenia																
Spain																
Sweden																
Switzerland																
United Kingdom																

Note: The full data are available in Supplementary Volume 3 of the ESPON COMPASS project. No data were supplied for Estonia.

Source: Based on data supplied by country experts.

Figure 3.2 Substantive goals and topics of planning mentioned in law

of land and other assets (14), and involving citizens in decisions on spatial development (11). For example, in the Flemish law of Belgium there is no precise definition of planning, but goals are set: sustainable spatial development and spatial quality, with a comprehensive list of considerations: spatial capacity, environmental impact, and cultural, economic, aesthetic and social implications. Some countries elaborate the goals of planning at length. France has a long list of substantive objectives in the Code de l'Urbanisme including policies to reduce territorial disparities, to foster economic development, and to ensure sustainable development.³ In Greece, spatial planning means (in summary) setting the objectives, guidelines and regulations for spatial development and organisation, including the shaping of residential areas, of business activities and of protected areas.⁴

Goals are generally expressed in generic terms, but some are clearly setting out in law an objective for planning in relation to a critical national issue. A case in point is Switzerland. The law does not define planning, but says only that the Confederation (the federation of cantons) shall lay down principles for spatial planning. However, it goes on to specify the goal of appropriate and economic use of the territory, and for land to be used with moderation. This reflects the overriding political goal for urban development in Switzerland: to halt urban sprawl and fragmented development in the country (Lerch, 2023).

Surprisingly, given the influence of the EU policy on spatial planning in Europe (explained in Part III of this book), only four countries mention social or territorial cohesion as a purpose of spatial planning. One of the exceptions is Portugal, where spatial planning has, in part, a specific definition concerned with achieving territorial cohesion to address the arbitrary transformation of rural land into urban land, and to counteract land speculation.⁵ For many countries, legal statements on planning represent an evolving approach to planning. In Italy, since 2001, there has been a widening of the definition of planning from *urbanistica* and its emphasis on regulating the transformation of land, to *governo del territorio* which indicates a wider interest in territorial dynamics and regional strategic planning.

Countries that spell out in law the substantive concerns of planning most fully include Slovakia. Land use planning is described comprehensively in the Act as addressing 'the spatial arrangement and functional use of land ... [and] coordination of activities which influence environment, ecological stability, cultural-historical values of land, land development and landscape in accordance with the principles of sustainable development'. It goes further to say that 'planning creates the conditions for permanent harmony of all activities in the territory with particular regard to care for the environment, research and ecological balance and ensuring permanently sustainable development'.⁶ A similar example is Lithuania, where there is a broad legal definition that says (in summary) that planning aims for sustainable territorial development, and

includes the establishment of land use priorities, measures of environmental protection, public health, heritage protection, the creation of residential areas and manufacturing, engineering and social infrastructure systems; and creating conditions for regulation of employment and services, and reconciliation of public and private interests.⁷

Scope

The reports from country experts on the formal legal definitions of planning mention topics that indicate the scope of planning. Obviously, planning in all countries touches on the topics listed in Figure 3.2, but what we are interested in here is what is said in the law about the scope of planning. An indication of the numbers of country reports citing specific topics gives only a broad overview because, as mentioned above, the quality of returns is not consistent throughout. There are some common themes. Predictably, land use (23) features most often, although expressed in different ways. Other topics mentioned in planning law for several countries are population or demography (16), environment (12), economy (11), heritage (9), infrastructure (8), and design (6).

Poland is a good example of a country that identifies a wide scope for planning. Not only does Poland specify in law a role of planning ‘socio-economic, environmental, cultural and aesthetic fields’, but it also explicitly states that the objective of planning is the ‘configuration of space, which creates a harmonious unity and considers in a structured relation all the conditions and functional requirements’.⁸ There is clearly an ambition for planning here that goes well beyond the regulation of physical land use change. This position on planning is shared by many other European countries. However, as discussed above, there is much bypassing of the law in different ways, including where there is the need for the courts to interpret the law and adjudicate in disputes. Poland is also an example of courts consistently favouring investors and private property owners in planning disputes (Nowak et al., 2023).

CONCLUSION

The study reported here is a broad-brush investigation of how law defines and explains planning. The findings show that it is an ambitious task to seek clear definitions. What we see instead is a great variety of approaches to defining spatial planning in the law. The variety thwarts any attempt at clustering countries, but they tend to follow similar paths.

Most countries to some degree establish goals for planning in the law. This is sometimes with reference to wider international and EU goals for sustainable and balanced development. There is also a clear indication that most countries set out a wide scope for planning in the law, and in some cases explicitly refer

in different ways to the coordinating role of spatial planning. This seems to be true irrespective of the legal family, although the common law approach in the UK and Ireland is reflected in the limited explanation of substantive planning goals in law.

Overall, whilst there is much variety in the way the law approaches planning, for most countries planning is not just about land use, but is a process of organising the use of the territory, coordinating spatial activities, working with other sectoral policy fields and managing competing interests to balance development with protection of land in the public interest. The definitions of spatial planning in law often bring together the procedural and the substantive roles, as a process to manage competition over land in the interests of sustainability and the common good. There is widespread attention to planning as a tool for enabling development and economic growth, but attaining more sustainable development is also given the force of law in many countries. The leading planning issues for the 2020s – climate change, resilience and the energy transition – are much less visible in law, which suggests some lag. Nevertheless, the evidence suggests that planning law is keeping pace with the wider international policy environment, and that there is recognition in law of the need for a spatial planning approach beyond land use regulation. That is an important if not sufficient condition for more effective action. What this means in practice is another matter.

NOTES

1. See: the Well-being of Future Generations Act (Wales) 2017 and the Planning Wales Act 2015.
2. Supplementary Volume I is available on the ESPON COMPASS website at: <https://www.espon.eu/planning-systems>.
3. Loi n° 95-115 1995, version on 27.02.2017, Art.1.
4. Article 1 al. b of Law 4447/2016.
5. Portugal Decree-Law 80/2015.
6. Slovakia Act no. 50/1976 Coll. on Land Use Planning and Building Order (The Building Act).
7. Lithuanian Law on Spatial Planning (1995) No I-1120 (last amended 2016).
8. Polish Act on Spatial Planning and Management, 2003.

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