



Analysis, recommendations and legislative proposals for a Building Act reform in the area of spatial planning

Spatial planning reform proposal

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Management summary

This document is based on the findings from the Analytical report drafted between February and May 2020 and on results of stakeholders' meeting that took place on 23rd June 2020. The document was drafted between mid-May and beginning of July 2020.

The presented document is an initial proposal of spatial planning reform and is subject to a further discussion at the interim meeting and at the second stakeholders' meeting planned in the following project phase. Both of these two events together, with comments of this document, should provide complex feedback that is expected to be projected in the updated version of this document and in the legislative proposal that is a primary deliverable of the following project phase. This proposal shall include the wording of a draft of a part of the Building act regulating spatial planning but it will also be complemented by the recommendations of the changes of other related legislative for a discussion with competent ministries.

The aim of the reform proposal is to adjust the system of spatial planning in order to better meet the spatial planning objectives. Planning tools allowing individualization should address properly problems self-governing bodies are facing and promote sustainable development responding to local

values and potential. While in many aspects proposed reform devolves competencies over planning to municipal level, it also emphasize new tools to manage efficient spatial development in whole supra-municipal agglomeration regions and concentrates planning competencies over systems of regional and national importance to respective governmental levels.

The planning framework should integrate currently separated strategic and spatial planning. The strategic plan should become a coordinating document which sets development goals, details local principles of sustainable development, and defines which next sectoral public policies and plans should be adopted to reach given target.

New set of tools that would help desirable spatial development outcomes are economic instruments that would incentivise development in desirable areas, such as brownfields, over development on agricultural land and natural areas. The spatial planning documents should be given more flexibility to set their level of detail and regulatory instruments according to the local needs. The upper level of municipal spatial planning documents should be much less detailed and specific areas requiring more detailed planning documentation should be planned individually with local development plans.

The planning should follow subsidiarity principle so it should be done on the lowest, but appropriate, level of government. Therefore, issues regarding the local development including local spatial planning should be within the competencies of municipalities. In some cases, the spatial development planning has to be coordinated from higher governmental level as individual decision-making on municipal level would not take into account spill-over effects to other municipalities or would not consider interests of larger region. The example of former is the need for agglomeration coordination and the example of later is planning of projects of national importance on the national level. Devolution of planning competencies to the appropriate governmental level should be accompanied by larger fiscal autonomy that will motivate for more interest in local economic development, investment planning, and efficient resource allocation.

Given existing municipal fragmentation, there is a need to provide institutional framework for inter-municipal cooperation. Municipalities too small to efficiently exert planning should be motivated to jointly procure strategic and spatial planning documentation and to share their institutional capacity. Inter-municipal cooperation is also essential for agglomeration planning that should be governed by agglomeration board consisting of municipal elected representatives. Agglomeration plans should be largely incentive-based to motivate individual municipalities to comply with agglomeration development plan. In case of strategic projects of regional or national importance, joint involvement of multiple governmental levels in projects should help to secure interests and expectations different levels of government have regarding such projects.

To ease preparation, coordination, dissemination, and assessment of spatial planning documentation, the underlying data used for documents drafting and documents itself should be accessible via national geoportal. The data covered by the geoportal should be wide ranging from data provided by national agencies, through data collected on regional and municipal level to publicly open geoencyclopedia. The geoportal should also integrate projects' approval processes. As a result, the geoportal should be the environment that would allow to monitor information about area, existing planning documentation and regulation, current planning processes and plans being drafted, prepared projects and their status regarding permitting process.

The reform should also consider opportunities to review planning documents to secure no one's rights will be violated. Also, the review process should take into account wider implications of planning documentation especially towards value of real estate property and potential compensations. For that reason, during the review process possible compensations should be considered and the plan's annulment should be perceived only as an ultimate solution. The option to review a plan should be also possible only in a given time period after the formal plan's approval and with no further review option after the end of such period.



The planning process should be highly inclusive and participative and participation processes should be less formalized to match with existing circumstances under which planning documentation is being prepared. Participative processes should primarily focus on appropriate stakeholders' groups given the character of plan and governmental level on which plan is being prepared. Participation should also take place earlier in the process of planning and when suitable focus separately on problem definition, analysis, draft proposal and final proposal. To increase awareness of strategic and spatial planning as a discipline of public policy-making, emphasis should be put on general public education, planning presentation and inclusion of planning in the general education.

Based on the analysis, the reform contains wide range of proposals that vary in terms of their complexity and ease with which they might be implemented in existing legislative environment. Based on the presented findings and proposed solutions, the decision about the goals and depth of the reform should be made. Aligned with the decision about the reform's characteristics project management structure should be prepared to make all involved parties and stakeholders aware of the following steps in the process and decrease the level of uncertainty regarding the planned reform.

Disclaimer

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1. Key identified problems to address

Based on the Analytical report and meeting with stakeholders held on 23 June 2020 below are summarized key problems of the current system of spatial planning. The identified problems are re-structured into six coherent groups that summarize wider range of partial problems from the Analytical report.

1.1. Insufficient application of public interests and local goals to achieve sustainable development

Despite the aim of the spatial planning system is, pursuant to the Building Act¹, to promote sustainable development with balanced public and private interests, current definition of public interests for individual areas given their character and scale is too abstract to apply them efficiently and continuously within the spatial planning practice, as public interest is vague legal concept ("neurčitý právní pojem" in Czech) within the Czech legal system.

Instead of more detailed public interests definition, for instance in strategic plans, public interests are listed universally and need to be applied further in local conditions.

Current system of spatial planning is rarely more tightly related to strategic planning and financial planning that would relate planned development to financial resources.

The system does not motivate individual participants for development. Development should be here understood as gradual improvement of current state. Therefore, local development at the end transforms into higher local added value, better job opportunities, higher wages and in general higher quality of life.

Current system is designed in a way that most of local stakeholders do not benefit from development (new construction and job opportunities are marginally reflected in municipal tax collections, municipalities are not motivated to make permitting process more efficient because officers are paid by the state level, local stakeholders are not compensated for costs incurred by local development etc.). In this setting, majority of participants are likely to be individually better-off when resisting the development rather than supporting it.

Observed issues

- Partial requirements on development may not be aligned with general principle of sustainable development
- Formal way of public interests protection with limited possibilities to negotiate for locally optimal solution (using the procedure of conflicts solving / řešení rozporů that does not include for instance mutual trading with potential remedies) and relevant harmonization
- Overrepresentation of environmental protection in spatial development decision-making
- Limited representation of some public interests within spatial planning processes, such as local employment and economic development

Regulation framework

- Building Act, Code of Administrative Procedure (Act No. 500/2004 Coll.), partial laws containing affected public interests

¹ Act. No. 183/2006 Coll., on town and country planning and building code (Building Act), as amended.



1.2. Inappropriate distinction of planning and management competencies between governmental levels

Currently, some competencies in spatial planning are imbalanced when some are on too much local level while others are too much centralized.

It seems the most severe issue is a lack of supra-municipal spatial development coordination on an agglomeration or other supra-municipal level especially at small municipalities. According to existing levels of government, this should be done on the regional level. In most cases, agglomerations and supra-municipal areas indeed do not cross regional borders with exception of Prague. Also, planning and management of projects of regional and national importance are currently problematic.

Conversely, plenty of regulation regarding spatial planning is on the national level, although it would be more efficient to let such regulation to reflect local conditions and leave it for local governments.

Observed issues

- Limited ability to tackle suburbanization and spatial misallocation
- Conflicts between state transferred and self-governing powers on local level (and to lesser extent on regional) level
- Low institutional capacity of small municipalities and absence of possibility of supra-municipal and agglomeration level
- Unresolved problems of inter-municipal public amenities provision
- Binding regulation not fitting local contexts – noise regulation, transport infrastructure policies
- Complicated planning of projects of supra-municipal importance, such as infrastructure
- Too detailed requirements on functional zoning on national level emphasized by some municipalities and planners

Regulation framework

- Building Act, Act on Municipalities (No. 128/2000 Coll.), Act on Regions (No. 129/2000 Coll.), Code of Administrative Procedure, specific laws containing affected public interests

1.3. Too narrow definition of spatial planning and its documents

Current spatial planning is still predominantly focused on the functional zoning. Although this approach might be useful in some cases, in many settings it alone fails to deliver intended high-quality built-up environment. The area should be governed by strategic plans and spatial plans should implement them.

Although land-use intensity or built-up typology could be in many settings equally or more important than functional use, the functional use is assumed to be the core of spatial planning with other regulations only with supporting role.

Current spatial planning tools lack prioritizing development in some areas over others. This could be seen for instance on greenfield development despite vast availability of brownfields. An incentive of the schemes to develop some areas prior to others could be done in market economy well with appropriately defined economic tools that are almost completely missing in the Czech spatial planning system.

Observed issues

- Absence of interconnection/linkages between strategic and spatial planning
- Low flexibility and responsiveness to new challenges
- Spatial plans are still too much oriented on functional zoning and often too much detailed



- Spatial planning largely does not take into account existing budget constraints and financing options and does not set management principles of the proposed projects
- Many issues tightly related to the spatial development and planning are not in municipal competencies, such as low fiscal autonomy and low translation of tax revenues into municipal budget
- There are no incentivizing tools that would promote or impede development in more and less desirable locations
- Property owners positively or negatively affected by planning outcomes are not compensated with an exception of expropriation or land use change from developable to undevelopable
- Development coordination in new development and redevelopment areas is insufficient

Regulation framework

- Building Act, Act on Municipalities, Act on Regions, Act on Budget Allocation of Revenue of Certain Taxes to Territorial Self-Government Units and to Certain State Funds (the Act on Budget Allocation of Taxes) (Act No. 243/2000 Coll.), Act on Administrative Fees (Act No. 634/2004 Coll.)

1.4. Inadequate involvement of digital technologies

Current system treats spatial planning documentation as drawings and text parts, but in reality contemporary planning regulation is typically system of spatial data layers mutually interconnected and linked to quantitative and qualitative regulation. Paper-based analogue documents are designed to remain the same over the whole period they are enforced. Conversely, digital documents could be based on principles present in the area and parametrically respond to them to be more flexible.

Current process of drafting spatial planning documentation and its commenting that is being done off-line slows down the process, does not allow to easily compare current planning documentation with the past documentation, neighbouring spatial planning documentation and documents of other levels of government.

Although some availability of data related to the spatial development, there is not common rigorous evaluation of spatial planning policies on the spatial development both in the qualitative and quantitative meaning.

Observed issues

- Scatteredness of spatial data across plenty of sources
- Primary assumption of paper-based planning documents
- Lack of standardization of underlying spatial planning data and information
- Lack of comprehensive guides of model decision-making, knowledge sharing, FAQ
- Spatial data utilization and evaluation

Regulation framework

- Building Act, Act on the Information Systems of the Public Government and on Amendment to Certain Acts (as amended by subsequent regulations) (Act No. 365/2000 Coll.)

1.5. Low public awareness and education and human resources

The principles and goals of strategic and spatial planning are in general not commonly known among wider public and strategic and spatial planning in the broader meaning beyond position to a particular development are rarely present in a local political discussion. While general public is more aware of the protection spatial planning provides on a very local level, its role on the city-wide and regional levels are commonly neglected.



Current spatial planning involves public in the phase when planning documentation is already drafted. It seems more productive to involve public at the beginning of the document procuring.

Attractiveness of working for spatial planning authority is not particularly high. While the work itself is demanding in expertise in law and spatial planning and assessing of plans and projects is rather complex, wages and social status are not sufficient. Also scattered decision-making power does not promote higher involvement in successful project progress.

Observed issues

- Awareness of strategic and spatial planning among general population is low
- Training of planning experts lacks linkages between planning disciplines
- Public participation is not being done in appropriate planning stage
- Trust in planning authorities is low
- Problems of motivation of officers in public administration in the agenda of spatial planning
- Gradual shift towards significantly more legal-oriented agenda

Non - regulation framework

- Education of the public
- Experts education framework, education guidelines
- Wage setting in public administration



2. Reform principles proposal

Based on the analytical findings accompanied by stakeholders' interviews and the first stakeholders' meeting, it has turned out the system of spatial planning needs deeper reform to overcome identified problems.

While some of our identified proposals could be successfully implemented to the currently proposed Building Act reform, some need proper and deep discussion.

We assume that following topics may be implemented immediately:

1. Interconnection/linkages between strategic and spatial planning;
2. Implementation of several economic instruments;
3. Connection of municipalities in respect of strategic and spatial planning and establishment of the supra-municipal/agglomeration level;
4. Time limits of judicial review; and
5. Establishment of the National Geoportal, process digitalization and improvement of expert support.

As mentioned above, there is significant share of fundamental reform areas that will require careful discussion among all affected stakeholders. Among these, for instance the system of tax collection and redistribution, devolution of more competencies to the municipalities or integration of the system of spatial planning with strategic planning and system of grants and subsidies provision could be mentioned. As a result this material could provide several options in terms of reform depth and it is largely on following discussion to what extent there is a willingness to reform current system.

The proposed spatial planning reform aims on support for more efficient spatial development on all national, regional and local levels. Aligned with the previous, the aim is to increase incentives for accommodating desired development and flexible spatial development processes. On the agglomeration level, spatial planning tools should define such development conditions that new development is oriented to already well-served areas not to cause excessive needs for investment in public services and infrastructure that is common in case of green-field development.

The reform principles proposal for further discussion:

1. Integrate all planning into one family of planning processes and documents;
2. Redefine competencies over planning;
3. Promote instruments for inter-municipal and inter-stakeholder cooperation;
4. Establish national Geoportal, process digitalization and improve expert support;
5. Promote effective judicial review; and
6. Support public involvement and education.

These six chapters are accompanied by seventh chapter named "Consider reform implementation" that focuses on possibilities of reform implementation. Besides the reform organization into the six mentioned chapters, the reform propositions could be also organized into several clusters typically joining propositions from multiple chapters. These clusters are:

- Cluster of vertical-horizontal coordination;
- Cluster of planning documentation;
- Cluster of new tools and
- Cluster of stakeholders' involvement.

Many of the reform propositions have relations to others even outside of their own cluster that makes the reform interlinked network of individual propositions. To visualise these linkages and clusters of related topics of the reform a diagram is plotted on a separate poster attached to this document.

As this proposal is an initial input into the discussion about the spatial planning reform some issues are not yet resolved and alternative possible options are included with their positives and negatives.



There may be several variants and phases of the potential reform. From a zero variant (nothing will be changed), to a variant when steps possible to be implemented immediately will be taken and a variant with complex changes to be discussed. Finally, a variant containing wide, deep and appropriate discussion about new concept of spatial planning in the Czech Republic may be assumed. These variants and phases, as well as concept of the potential reform, need to be further discussed with the Ministry and within upcoming stakeholders' workshop.

The text of the following chapters is organized into the main paragraphs introducing the key principles of the reform and then these main paragraphs are followed by boxes where details, examples, references or justifications are placed to elaborate the general principles.



2.1. Integrate planning into one family of planning processes and documents

Coordinating strategic plans

Strategic planning documents on all levels of government should provide basic framework of sustainable development goals within the given unit of government (national, regional and municipal) and its area. Therefore, they should detail general requirements on sustainable development required by the upper level regulation and planning. These documents should be obligatory for all other plans and regulation issued on the given governmental level and for regulations and plans on lower levels of governments.

All three levels of planning should respect the principle of subsidiarity so they would not interfere into planning competencies of lower-level governments when not justified by the necessity of such action and conversely issues with significant spill overs over administrative area of a given government should not be addressed by such government, but by government that covers the whole affected area.

The aim is to clarify general requirements of sustainable development in the strategic plan on its level – national, regional and local. The smaller the area is, the more different sustainable development goals might become compared to national general principles. While, for example, in an economically deprived region primary public interest more important compared to others might be to attract new jobs, in rapidly growing agglomerations it might be the ability to build more housing units in the central agglomeration areas at a cost of developing agricultural or natural land and so on. These examples are highly simplified to illustrate the main point. These fundamental goals of development and local priorities should be set by local representatives and should be followed and implemented in ongoing public policy drafting and decision-making. National and regional regulation superior to municipal regulation given either by laws or planning documents must be respected, but at the same time should allow wide range of development policies and public interests protection levels on a local governmental level to appropriately tackle local problems and safeguard sustainable development. In principle, the national level regulations should not define general requirements too narrowly as it would impede local negotiations of sustainable development priorities and goals.

Strategic plan defining framework for subordinate documents

Strategic documents should be compulsory underlying documents and binding for process of spatial planning and integrate all public policy planning and safeguard its coordination. Regarding spatial planning, strategic documents should specify planning goals of given self-governing unit in the spatial plan specification (zadání územního plánu) and therefore should become a basis for a spatial plan proposal.

When assessing clashes between particular public interests in an area, strategic documents should be taken as a leading document to decide which interests should be prioritized over others. Strategic plans should be also elaborated prior other planning policies because they can clearly identify most salient problems spatial unit is facing and define policy responses to tackle them. These might differ given local circumstances – for some municipalities optimal policy response might be a new spatial plan while for others it might be a plan for public space redevelopment or new mobility plan.

In general, public policies need coordinating and binding tool that sets ultimate development goals and achievement of these goals is later proposed by the implementation of sectoral planning documents and policies. The coordination should be the role of a strategic plan that should be elaborated on national, regional and municipal levels and the form and structure of Strategic plans might be given in the 248/2000 Act on Support for regional development. The process of drafting strategic plan should be highly participative and inclusive to capture as many perspectives on local development as possible. Regarding the coordination of public interests representatives of upper-level governments and bellow-level governments should be also involved as public interests represented by different levels of governments might not only be the same, but could frequently collide. The proposal of the strategic plan should evaluate all stakeholders' inputs and as already mentioned should propose the development path bringing the highest overall social value. As the strategic plan should provide the key development principles and becomes a corner-stone for following planning policies, the possibilities of the review of the strategic plans needs to be considered. The strategic plan should, besides the development goals, also propose a way how to achieve them. Regarding the spatial planning it should identify policy instruments appropriate for achieving stated goals (for instance functional zoning, formal zoning, development fees zones, zones of differentiated amenity fees, mobility plans and others and any combinations of such policies; These sectoral plans could use various instruments significantly affecting spatial development – such as municipal parking policy with parking fees or municipal road tolls). As a result, spatial planning agenda would not be covered only by plans directly defined by the Building Act, but would be rather set of planning documents that is defined in the strategic plan.



As some of the sectoral policies could involve public investments or changes in current expenditures the plan should assess budget limits and possible sources of financing.

Spatial planning economic instruments

Current failures in orienting new development towards the most desirable areas should be achieved by incorporating much wider set of planning tools better suited to the free market economy with many actors deciding upon market forces. Among these tools, there should be property taxes, spatially differentiated local public services and amenity fees, impact fees (that would also serve as a land-value capture mechanism) and spatial plans changes fees.

Strategic planning should also consider or coordinate provision of incentives and subsidies for development in particular areas.

Despite the fact there are possibly more severe problems of agglomeration misallocations, the within-city misallocation are also present. The commonly observed issue are, for instance, greenfield sites being developed despite existence of brownfield locations or new development being built in areas with poor public services despite better served locations are available. It was shown less central locations have their permitting processes on average shorter (Analytical report, chapter 5.4.) that leads to relatively higher attractiveness of these location. As a response, these areas might be developed more frequently and possibly most of zoned greenfield development sites could be developed while centrally located development areas are still available. In such case, according to section 55 paragraph 4 of the Building Act, new development areas could be zoned as it might be argued comparable development areas were exploited. This illustrates the problem that spatial plans only define whether some zones can or cannot be built-up, define functional use and possibly some form-based requirements, but do not incentivise or disincentivise particular locations to be or not to be developed (for instance fees to develop on agricultural land exist, but these are very low relative to land value in high-demand areas).

To overcome this problem, the spatial planning documents could execute economic instruments to address stated problems. Aligned with principles of the proposed reform, none of these instruments should be obligatory. Their involvement, combination and parametric definition should be left to local governments to be set according to local planning goals and needs.

Property taxes

Setting the property tax should be set variable within the municipal competencies. The tax base should be derived from the commercial real estate value so the taxation will support efficient real estate use. There should be also possibility to adjust relative weights of land taxation and structure taxation in the overall property tax rate. The relatively more taxed land is compared to structures, the more the instrument motivates landowner to use the land efficiently (for instance convert brownfields or increase land-use intensity if it is allowed by planning documentation). Flexibility in setting property relative shares of land and structure property taxes could also help to decrease pressure on buildings that are for instance protected and their redevelopment to higher densities is not desirable. For such cases taxing more construction instead of land will decrease willingness to use the land more productively.

Public services and amenity fees

Various districts in cities, especially due to their urban built-up typology, have significantly different per capita running costs of public services and amenities provision. Major differences are seen for instance in case of public spaces and urban greenery provision. When costs of these services are not differentiated with respect to local costs of amenities provision residents of lower density detached housing neighbourhoods more costly to maintain are actually free-riding as residents of compact less costly neighbourhoods pay the same contribution, but provision of services in their location is relatively less costly. This might be another channel that motivates for suburbanization. The planning response is to impose local amenity fees that capture local running costs of public services provision. Such fees should be imposed on all properties in each fee zone (This tool could actually create an incentive to develop well-served areas as higher land-use in an area would likely reduce individual contributions to public amenities).

Impact fees

Another tool, impact fees, is related to new development and its positive and negative effects. Regarding private construction these impact fees (sometimes in our context called development fees) could capture the local need for public investments induced by the prospective new residents, for instance into education facilities. These fees could also partly capture the negative effects on current local residents and through their collection local government might compensate locals for instance with improvements of existing amenities. As shown primary receiver of compensation should be in these cases municipality as level of negative effect towards each community member expressed for instance in monetary terms is relatively low. Such a tool should therefore help with development acceptance in existing communities. Based on the character of project and its expected level of nuisance compensation could be paid directly to the affected entity. Although less common, these cases for instance include planning of noisy infrastructure in a proximity of real estate. As effects of such noise increases could have magnitude of per-cent points of property value they should be paid directly to the real estate owners. As in the case of private investments these compensations should promote fairness in the balancing of private and public interests and partly relieve resistance against nuisance projects that are socially desirable. The last case where impact fees could be applied is in case of positive effects of public infrastructure, such as new public transit line. The presence of such infrastructures typically immediately capitalizes into property values. Impact fees have in general two reasons in this cases: first, collecting some contributions could help to finance such an infrastructure projects and secondly it helps to deliver public goods at optimal level – if there is no impact fee and majority of municipal citizens are likely unaffected, let's say by metro extension, the majority might be against such as costly investment that



capitalizes into property values only of few who are lucky and their properties are located in the vicinity of the planned infrastructure. If this increase of value is largely captured by the impact fee instrument such an argument is weakened. In general impact fees should be set in advance by planning documentation to make the system more transparent and not be negotiated case-by-case.

Spatial plan change compensations

Currently, severe problem in the urban planning is a land speculation. As there commonly exists chance to change the spatial plan and change zoned functional use or land-use intensity the land values capitalizes this expectation and become too costly to be developed according to given spatial plans. The response how to limit the speculation is to capture the differences in land value. This could be done either by directly taxing differences in land value (Implemented on Taiwan, Analytical report, chapter 7.2.) but in case of the Czech Republic more feasible seems to capture some part of land values increases or decreases when spatial plan is being changed and this compensation would be part of agreement regarding the zoning plan change (more options how to capture this type of fee are elaborated for instance in the project supported by the Technological Agency: <https://starfos.tacr.cz/cs/project/TL02000456>).

Incentives and subsidies

The last part of economic instruments focuses on subsidies. These should be considered already when drafting strategic plan and then detailed in accordance with spatial plan. Subsidies or financial assistance with for example transport infrastructure, public amenities or for brownfield restoration should be part of spatial planning documentation. National development plan, Principles of spatial development, Spatial plans and Development plans should contain lists of public investments or investments with expected public involvement. These listed investments should be consequently evaluated regarding potential financing opportunities in Strategic plans (or Strategic plan Implementation plans) and investment prioritization should be then contained either in the Strategic plan or its Implementation plan.

Incentives for flexible construction permitting in high-demand areas

Specific incentive for municipalities to be more flexible to permit more construction where demand for space is high should be direct participation of municipalities on given share of tax collection from new development. Most feasible and reasonable seems participation on VAT tax from new construction or similar measure based on difference between market value and marginal costs of production. Direct participation on VAT tax collection is the simplest scheme, but even more elaborate systems dependent for instance on current planning stringency and year-on-year changes in permitted residential units, such as briefly proposed in Glaeser & Gyourko (2008), might be considered. Additionally, to motivate municipalities for their local development, a given share of some of their taxes collection should be left to municipalities without further redistribution.

Well served high-amenity high demand areas are frequently relatively inelastic in terms of new development. This could be partly caused by the NIMBY effect as homeowners either want to mitigate risks related to the new development to protect their property from value decrease (Fischel, 2001) or they oppose new development to exploit opportunity to increase their property value when facing demand increases and fixing supply.

No matter what the motivation behind the NIMBY effect is, the results could negatively affect spatial equilibrium as development will be pushed to less favorable areas potentially increasing commute intensities or increasing demands for investments in public infrastructure. Because homeowners are also typically residents of a given municipality they might vote in municipal elections for representatives promoting no-development policies that favors homeowners as it was shown.

Reasonable instrument that could offset above described tendencies to oppose development is an incentive scheme applied from the regional level (data does not suggest there would be any agglomeration that as a whole systematically oppose new development. Instead more common is low development activity in core cities and stronger development in suburban areas). For this purpose the given share of difference between market value and marginal production cost seems to be especially neat. Contribution constructed in such a way would approach zero on completely elastic markets that respond perfectly to demand and where zero profit conditions hold, on the other hand the lower is a price elasticity of supply (caused by planning stringency) the higher would be the contribution. In other words localities with high real estate values relative to production costs would receive higher per unit compensations. Given expectations about significant inelasticity of current supply elasticities such a scheme should motivate high demand areas for reducing the planning stringency towards new development. Conversely under some conditions such scheme could actually motivate municipalities with very elastic market to increase their stringency. To prevent such option the construction of contribution might involve the actual and past stringency levels to motivate municipalities to increase number of permitted development units.

Interlinked planning documents on national and regional level

Spatial planning policy and spatial development principles should be interconnected with Regional development strategy and Strategical framework of regions' development to create set of documents on the national level and on the regional level. At these spatial scales the planning itself tends to be more strategic. For that reason development strategies should be concentrated in the strategical document which should be accompanied by implementation spatial plan that would be spatial projection of proposals given in the strategic document. The planning documentation on the national



and regional level should also contain other relevant plans such as national and European financial support, other incentives and proposed future project management principles that should safeguard implementation of planned projects.

Planning of supra-local infrastructure, such as strategic motorways, national roads or rails, technical infrastructure etc. should completely belong to the national level of planning and planning of these individual infrastructure systems should be left to agencies managing these infrastructure systems, but at the same time all planning would be coordinated by the supreme national planning authority. These individual infrastructure agencies would be obliged to consult their planning proposals with all levels of governments to deliver optimal planning outcomes. This would similarly hold for planning infrastructure systems on the regional level, for instance transport and technical infrastructure of regional importance or region-wide systems of public services when applicable.

Currently spatial development strategy is dealt with both in the strategical documents² (Strategy of regional development – national level, Strategy of development of region – regional level) and in the spatial planning documents³ (Spatial development policy – national level, Spatial development principles – regional level). The aim is to concentrate the strategical principles into the coordinating strategical document and then project in the regulative spatial planning documentation only features of planning interests of the national and regional levels respectively.

The strategic documents are assumed to have spatial dimension for instance to capture local differentiations and to present concepts for spatially differentiated policy responses, but this spatial projection should have rather diagrammatic form and become a base for more detailed documents proposing particular public policies.

National level

Spatial plan on the national level would be one of these sectoral implementation plans that would detail objectives stated by the strategic document. The objectives subject to national spatial planning should be especially systems of national interests, such as strategic motorways and national roads, rail infrastructure, major nation-wide energy and media transmitting infrastructure, green infrastructure of national importance and others justifiable by national interest or with supra-regional spill-over effects. The document should be elaborated in an appropriate scale to allow decision-making according to the plan (The scale could be in a range from 1:100,000 to 1:20,000). During the plan drafting the proposal should be consulted with affected governments and stakeholders to choose the optimal solution.

Regional level

The principles of spatial plans on the regional level are analogous to the role of spatial plan on the national level. While all the strategic principles for the regional development should be stated in the regional-level strategic plan, the regional spatial plan should implement through legally-binding document features that are within the planning competencies of regional level. The regional level spatial plan should plan infrastructures and public services of regional importance and on top of that important part of the regional spatial plan would be to delineate agglomeration areas. While the delineation itself should be largely based on the inter-municipal discussions and agreement, the regional level should approve proposed agglomeration areas to confirm the delineation meets its purpose to define functionally integrated areas that require planning coordination to deliver sustainable and efficient development distribution within an agglomeration. The exception among agglomeration plans would be the plan of Prague agglomeration which would be coordinated and approved by the national planning authority as the Prague agglomeration is the only one that significantly exceeds from one region to other and therefore cannot be coordinated by regional government.

Upper level municipal spatial plans

Spatial planning on the municipal level should move towards originally intended two level system known for instance from Germany. As it is presumed by current Building Act, we have observed from the stakeholders interviews it does not work nowadays. Spatial plans are too detailed and bound by rules stipulated by law and regulation plans are in fact not used in the most areas of the Czech Republic.

In such a new system the spatial plan is less detailed and one of its key function is to define areas of expected development that should be planned in more detail in second level documents. Following this principle, spatial plan should be an implementing document of the municipal development strategy. As such, it should primarily define development and redevelopment areas and provide complete information about conditions for their development, such as following planning requirements, related fees and co-investments in an area or other policies affecting an area. The underlying logic of the plan should be the same as in the case of German spatial plans that the spatial plan does not provide right for building, but defines where development is not possible. The right to build is either given by the second level documents or individual case-by-case approval process. In

² defined by the Act on Support of Regional Development

³ defined by the Building Act



general requirements on the form and content of the spatial plan should be very limited to allow fit spatial plan to the needs of any municipality or inter-municipal consortia.

It is frequently noted, the current municipal spatial plan is too detailed when taking into account its role of coordinating tool for municipal development. As the spatial plan is required to treat coherently the whole administrative area of a municipality, the level of detail makes the document lengthy to draft and later lengthy to consult. At the same time, the requirements on the detail shift attention from municipal-wide problems to problem of very local particular interests that would be more efficient to deal with either in more detailed localized plan or individual approval.

The main purpose of the spatial plan is to detail the municipal development strategy. Therefore it should define what areas are in general developable and which are not. Secondly, among the developable areas, the plan should define areas where significant changes are expected, either in case of new greenfield development or brownfield re-development. This distinction based on expected local stability is important, because for areas of large expected change it is efficient to prepare more detailed plans that would better specify form of future development and during this process negotiations about the future land-use, capacity and coordination of infrastructure, public amenities, green infrastructure and land-ownership re-adjustments would be done. For the stabilized areas such a detailed planning seems not to be efficient and decision making in these areas should be done case-by-case according to general rules given by the spatial plan. Elaboration of more detailed plans should not be restricted only to areas defined by the spatial plan. If there arises a need for a more detailed planning documentation in some area previously considered as stabilized such a development plan (similar to current regulation plans) providing more details and requirements for possible development in an area should be made to coordinate interests in an area.

Besides definition of areas according to their proposed development, the spatial plan should treat infrastructure and public services provision. In case of these public investments funding and following project management should be briefly outlined.

The spatial plan should be relatively open framework that could contain functional zoning, land-use intensity and typology requirements, specific form-based requirements, but also economic instruments in the form of fees. Regarding the overall spatial plan proposal it should evaluate how the plan accommodates requirements given by the strategic plan, how does it respond to projected economic, demographic and environmental challenges and how proposed public investments and public co-investments into public infrastructure following private development will be funded.

If a municipality decides to levy a development fee for new development, the methodology of setting the fee and its size (allowing for inflation or other adjustment) should be tied to the zoned areas in the Spatial plan and possibly more detailed in the Development plan.

If the proposed spatial planning documentation non-marginally increases or decreases value of land and real estate thru change in land-use function or land-use intensity, this change in value should be captured by financial compensation or non-financial compensation of equivalent size. The compensation for increase in value would be due for payment when building permit for new use is issued.

If any proposed land-use cause non-marginal decrease of value of neighbouring land and real estate, for instance by significant nuisance such as noise, these decreases should be compensated by impact fee financial compensations or non-financial compensations of equivalent size. All compensations, their sizes and methodology of estimations should be present in the compensation plan that should be obligatory part of the spatial planning documentation proposal. The list of the land-uses causing non-marginal decreases in property value would be detailed in subsequent decree as well as the effects on property values that would be determined and regularly revised in a research project conducted for that purpose.

Other economic planning instruments, such as amenity fees, parking fees, road tolls should be discussed in the non-binding part of the spatial planning documentation and its justification, but these would be enacted by separate documents.

Lower level municipal development plans

Plans on the second level should be more detailed and focus only on areas that require such a level of planning detail. These more detailed plans might be in a form similar to current spatial plans, regulation plans or spatial studies given local planning requirements. These detailed documents may or may not substitute some components of the building permit process requirements. Substitution of the part of the process that assess building volume and capacity, orientation on the plot and functional use would be especially desirable in cases of larger development areas or redevelopment sites where it would ease following approval process and move negotiations about the development characteristics into municipal planning process.

The most important reason why to employ second level of planning documentation is to relieve the spatial plan from its current detail, to deal with local issues on local level and in case of complicated areas not to block the process of commissioning upper level document and finally to provide planning tool that would ease development coordination on a locality level especially for larger development and re-development sites.

Development plans should be commissioned for all areas where significant development is proposed to coordinate spatial attributes of the new development, such as public and private spaces delineation, characteristics of the built-up typology, investment into public infrastructure and services and potential compensations between involved stakeholders.

The document should be relatively flexible regarding areas it regulates. Based on local circumstances in some areas, binding building capacities, exact setbacks and building volumes could be defined, for some areas it might be more beneficial to define for instance only distinction between public and private spaces and building capacities and other requirements leave for building permitting process.



Flexibility of planning documents

In general, all planning instruments should be given more flexibility in terms of processes, content and form. Regarding processes, more emphasis should be put on mutual negotiation between various stakeholders. The lower level documents should be allowed to deviate from above level documents if they justify such a deviation and at the same time the new proposal fulfils objectives of the above-level document. Processes should also allow plans commission by municipal consortia. The content of planning documentation should be largely left to reflect local situation as well as formal aspects of documentation.

Current regulation of spatial planning documentation, especially the tools it can use and to lesser extent processes regarding its commissioning, is too binding and does not allow in many cases to respond to the major issues municipalities are facing. This is aligned with a view the spatial planning documentation does not allow to fully express vision of elected representation in its wide into the plans as they are too technical and not enough political in terms of containing main decisions about municipal development. Also very formal definition of documents content and processes promotes later formal court review.

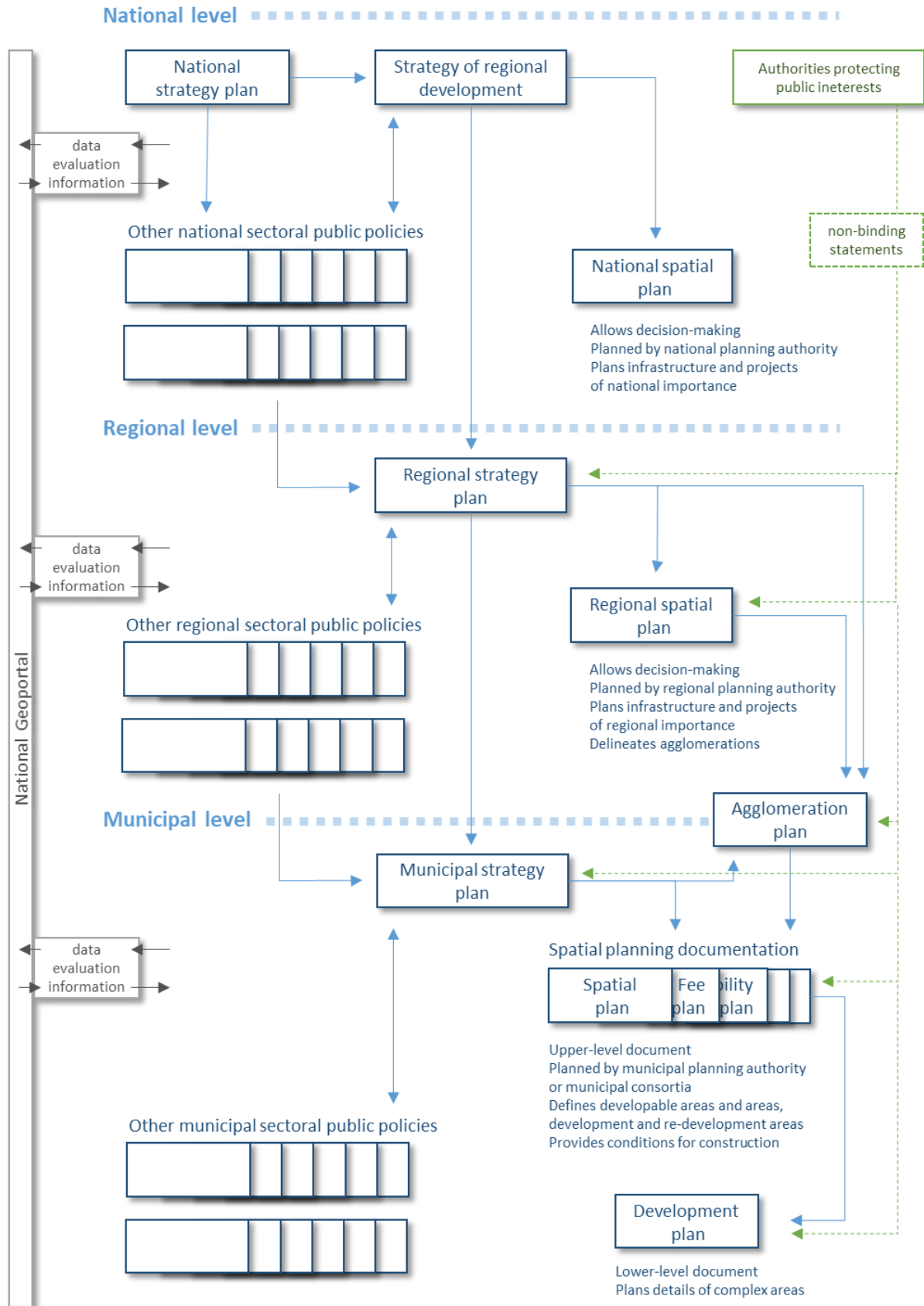
To address these shortcomings spatial planning documentation should be defined more as a toolbox of potential instruments that could be implemented to fulfil spatial planning objectives. Similarly processes should be outlined in a general framework to leave enough space for local adjustments based on particular needs. This does not mean the process should not be planned, but the process of the planning documentation drafting should be clearly proposed in a form of project management principles in the initial task for the planning documentation.

Municipalities would be required to have spatial plan if they want to commission more detailed development plan. Nevertheless it should be allowed to commission and elaborate spatial plan and detailed development plan at the same time. The spatial plan would have to meet minimal standards set-up by national regulation and by regional spatial regulation (if some additional requirements for some areas are set).

In the following Figure 1, there is described how the planning document structure could be built up, including the interconnections between all the levels.



Figure 1: Planning documents structure



2.2. Redefine competencies over planning

Subsidiarity principle

Planning should follow subsidiarity principles and planning problems should be addressed on the appropriate governmental level to mitigate negative spill-overs, motivate for local active development, prevent from public services free-riding and promote efficient spatial development with high added value and low environmental footprint.

Specify local sustainable development goals by elected representation

The aim is to move spatial development decision making and spatial planning to appropriate level of government and legitimize it by political responsibility of elected representations. More involvement and responsibilities of local political representations into strategic planning and overall view of the area and its needs should help local development in several aspects: Local elected representation is most aware of the local context and could respond to it with specification of local public interests better than regulation or decision making of upper-level governments. As a result local governments, assuming their objective is to be re-elected, are more interested in such development that will increase overall well-being in their municipality and they will try to achieve it to satisfy local residents.

Currently the problem of local definition of sustainable development goals is seen as urgent. In the current system of public interests protection where rather sectoral perspective than holistic approach is supported is complicated to come to a solution that in a given location brings overall highest value at costs of some protected public interests. For that reason, the clarification and statement of local sustainable development goals should be done by local elected representation via strategic document of the self-governing unit. As the local government should represent the will and interests of local residents it should make informed decision according to all inputs collected when drafting the strategic document and conditions for its late implementation. Because a decision about the local sustainable development goals and their specification put into the strategic plans could potentially violate upper-level or bellow-level planning decisions within the planning competencies of respective governments, the possibilities of the review of the strategic plans needs to be considered.

Planning autonomy with higher fiscal autonomy

Efficient municipal planning should be achieved as a combination of dominant role of local governments in the processes of strategic and spatial planning combined with higher level of fiscal autonomy delivered by setting property taxation zones and increase of property taxes on overall tax collection (while maintaining the total amount of the overall tax burden), higher direct shares on some local tax collections, increased revenues from services provision fees and clearer definition of inter-municipal service provision.

Current hesitance for new development could be partly caused by a very limited benefits that new development bring to localities and municipalities. Why municipalities have often invest to local amenities and public services to avoid potential congestions tax increases are only moderate and therefore allowance of new development is rather connected with more political risks than benefits. In general local fees and property taxes should have higher share on overall tax collection. Because these are currently very low, for instance when compared with other OECD countries (Analytical report, chapter 4.7.), it would be necessary to reduce some other taxes to have room for increasing property taxes and local amenity and public services fees. It is important to note that the reason why to increase amenity and public services fees is actually not to fully finance them with these fees, but to create incentive mechanism strong enough to motivate for development in areas where the provision of such services is relatively cheaper and therefore these fees could be in such locations lower.

Property taxes

Higher property tax set and collected by municipality has several benefits: first, it increases local fiscal autonomy and independence on financial transfers. It also motivates for efficient use of real estate properties such as reduction in vacancies or move towards efficient functional use. Then it motivates municipalities for permitting construction in high-demand areas (proximity to metro or train station or park could be an example) as in such locations property values are highest as well as would be future property tax collections. The last point is related to motivation for municipalities to invest in desired public amenities. If for instance renovation of neighbourhood park increase local property prices such an increase is partly captured by the increase of property tax.

Direct participation on other taxes

The reasoning for increasing municipal direct participation on tax collection is twofold. First, share of taxes derived from new construction could offset investment costs related to new development and this kind of incentive could overcome current reluctance of governments of some attractive residential markets to allow more construction. Secondly, higher participation on other taxes, such as personal income taxes and or corporate income taxes, could motivate in general for



more involvement in local economic development. It is important to note the direct participation on tax collection would be dependent on parametrical setting – if property taxation is increased enough then direct participation on income taxes probably would not be necessary.

Inter-municipal public services provision

Currently public services such as pre-school and primary school education, elderly and social care are delivered by municipalities. Running costs of these services are largely compensated with state transfers, but there remain for instance investment costs for new infrastructure provision or existing infrastructure renewals. It is observed that some municipalities allow new development without considering its requirement for related public services. As a result residents of the new suburban development frequently utilize infrastructure of core cities. To optimize public services provision and provide it in appropriate distance from residents, public services provision should be planned on the agglomeration level and inter-municipal provisions of public infrastructure provision should be part of agglomeration plans negotiations.

Plan infrastructure and other supra-local issues bindingly and on an appropriate level

According to the principle of subsidiarity, some infrastructure systems or development coordination should be done on a national or regional level. This should be done in case when the planned issue causes spill-overs beyond administrative borders of planning authority or in case when de-centralized uncoordinated decision-making leads to suboptimal results. The example on the national level are supra-local spatially continuous systems such as major transport and technical infrastructure that should be planned separately and should belong to the national planning competencies.

On the regional level, planning competencies should cover regional-level infrastructure and within defined agglomerations their development coordination and public services provision via agglomeration plans. Regions should delineate agglomeration areas which would be required to commission agglomeration plan. Despite being part of regional planning and being subject to regional approval, leading role in drafting and negotiating agglomeration plans should be left to local municipalities and their inter-municipal cooperation.

While this proposal in many cases indeed promotes devolution of planning competencies to local governments, in this case the direction is exactly opposite. It was often commented at this moment projects of regional and national importance are uneasy to plan and build. Similarly, the development coordination above the municipal level is cumbersome as municipalities are not motivated to cooperate partly because too much of competencies is devolved to the local level despite these competencies might interfere with interests of much larger spatial unit. Similarly, the lack of coordination on the agglomeration level leads to inefficient development of natural or agricultural land as there are no incentives for suburban municipalities to be similarly restrictive as core cities in an agglomeration. Although an introduction of new layer of plans is not seen as a pure benefit, its linkage to additional source of municipal funding and relatively low formal requirements on plan itself should ease commissions of these plans.

Building permitting processes within state powers

New construction approval process should be clearly divided into competencies of self-governing and state-transferred powers. Self-governing powers should define all their requirements in the planning documentation, either in the upper level spatial plan and related regulations, or in the more detailed development plans. As both planning documentations should be relatively flexible, they should allow to regulate land-use intensity, function, setbacks and built typology, impact fees and possible other compensations. It would be up to municipality which of these regulations it would choose to adopt. According to the particular plan it would be clearly stated which requirements are obligatory and which are recommended or allow some range of options that have to be fulfilled.

The building permitting process should be completely within the competencies of state administration and within this permitting process it should be assessed whether the presented project meets requirements of given regulations.

Currently there are conflicts between self-governing and state transferred powers leading to systematic bias when local political representation could affect decision-making of state powers at building permitting offices. It was noted political representations might not be so experienced how to efficiently use spatial planning documentation to safeguard their priorities and therefore they rather exploit their influence over spatial permitting offices on case-by-case basis. Given significant proposed simplification and increased flexibility of planning documentation combined with an opportunity to include new economic tools the planning documentation should become more comprehensive for elected representations to use it for securing own interests. As a result the building permitting process could be left to professional state administration to assess whether projects meet all given requirements.



National regulation revision

Current regulation on the national level should be revised and only essential requirements, especially with national spill over effects such as carbon footprint or cases where single standard brings significant benefits, should be regulated on the national level as obligatory. Other requirements could be left as recommended, within a range of possible options or amendable by local regulations to allow local variation on lower levels of government. The aim is to relieve some overly restrictive regulations that are hard to meet in some particular settings, such as noise limits in densely populated cities, requirements on transport infrastructure within cities or strict protection of some public interests in areas suffering from more severe shortcomings such as unemployment and depopulation. The regulation should be revised by interdisciplinary commission that would be established on a national government level. The possible interconnections including the subsidiarity principle are pictured in following Figure 2.

The interdisciplinary commission consisting of urban planning and regional development experts, urbanists, sociologists, social geographers, anthropologists, economists and spatial economists, environment protection experts, environmental economists, heritage protection experts, mobility experts, public health and sanitation experts should review provided analytical inputs and weight costs and benefits of individual sectoral regulations.

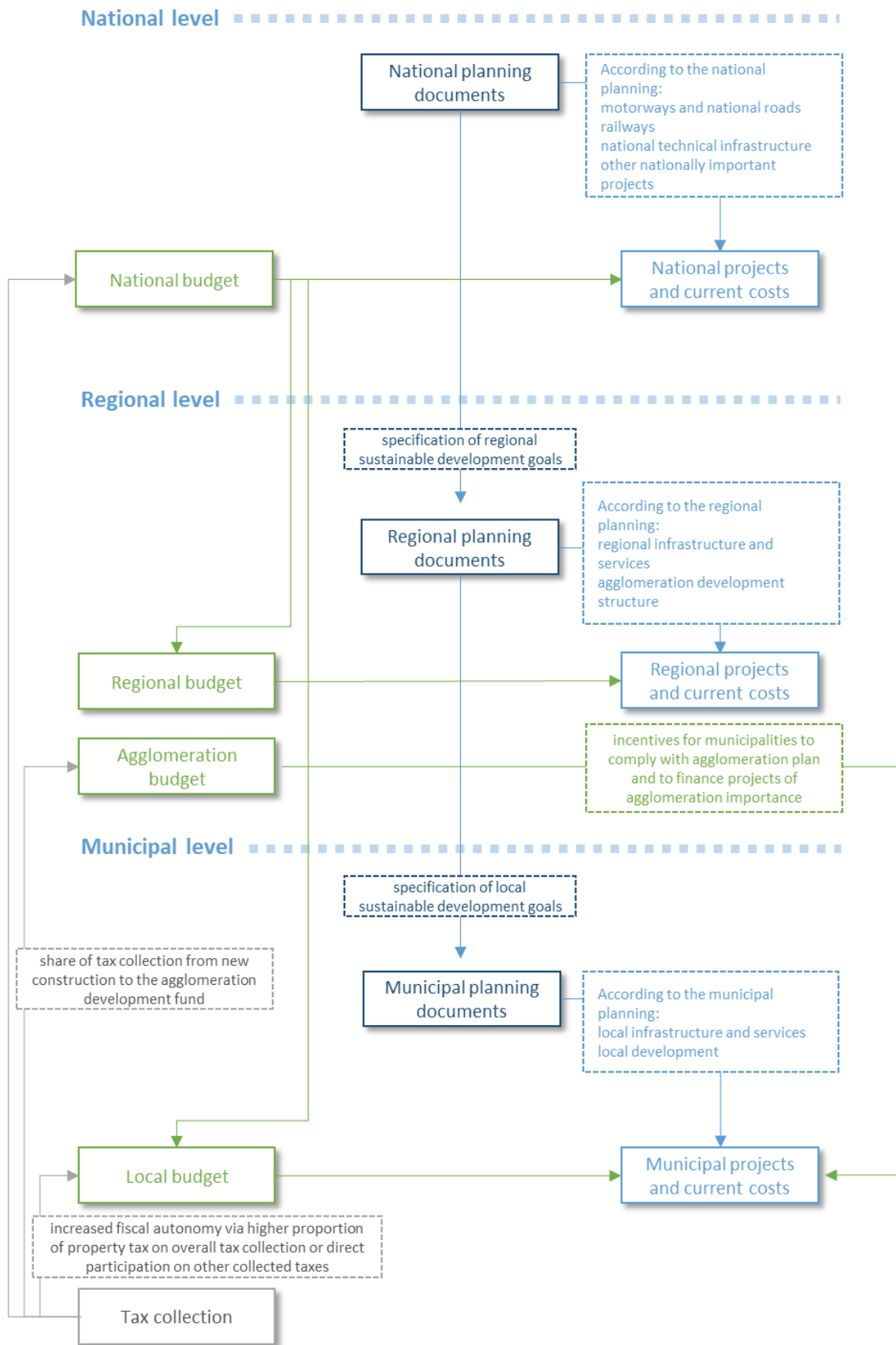
In principle it would be desirable to formulate regulation in a way to set minimal requirements and optimal levels. The wider range of public interest protection levels would allow easier negotiations in individual cases and would help to promote development goals that might significantly increase overall local well-being at costs of lower level of protection of some local interests that could be currently not possible.

Such an example could be for instance agricultural and undeveloped land protection. While this is an important goal on a national level, it might not be a goal at all in close proximities of attractive agglomeration cores. If undeveloped land is overly restrictively protected in such areas lower response to demand for housing can drive real estate prices up leading to housing unaffordability and in a longer term to slower economic development.

The potential of different regions on overall sustainable development should be recognized and supported by national and regional levels, but the final decision about local priorities should be done by local governments. Very broadly urban regions should exploit their competitive advantage in agglomeration economies and attractiveness for new job opportunities, rural regions could on the other hand well perform in natural protection, natural ecosystems recovery and reforestation.



Figure 2: Subsidiarity principles diagram



2.3. Promote instruments for inter-municipal and inter-stakeholder cooperation

Incentives for general inter-municipal cooperation and mergers for the purpose of strategic and spatial planning

Together with devolution powers to municipal and regional governments, municipal governments have to cooperate to efficiently deliver public services and planning tasks as majority of municipalities is currently too small for doing so.

As a response to current extreme municipal fragmentation and reluctance for a wider reform of the municipal subdivision, new tools for inter-municipal cooperation for the purpose of strategic and spatial planning should be implemented. They might be either in a form of expert and financial assistance for voluntary municipal mergers, or should allow and incentivize individual municipalities to share their administrative capacities and provide their public services jointly.

Due to the historical reasons there was a strong demand for provision of self-governing powers to local municipalities that were defined on the basis of existing individual villages. Until nowadays there is a significant resistance towards possible forced municipal mergers. At the same time as there are more than 6500 municipalities most of them are too small to efficiently provide basic services such as municipal administration, kindergartens, primary schools, social services and services for the elderly.

The response to this challenge is twofold: From the national perspective there might be an incentives for voluntary municipal mergers. For instance The Netherlands provide funding for transaction costs related to municipal mergers and also provide grant for a temporary merger for 5 years (Analytical report, chapter 4.4.).

Second approach is to allow and motivate municipalities to share their public services provision. In that case municipal consortia of roughly 3000 to 5000 inhabitants seems to reasonably big as for such a size of population primary local services could be efficiently provided.

Inter-municipal spatial planning within municipal powers

In the area of spatial planning the benefit of inter-municipal cooperation should be devolution of competencies over local spatial planning to the municipal level unlike current joint competencies shared between municipal and national powers. As a result, single municipalities or municipal joint consortia should prepare their strategic and spatial plans. In case of joint plan, it should be recommended to elaborate them for settlements of at least some 3000 to 5000 inhabitants and optimally these consortia should cooperate within multiple tasks and not only planning. Given population size for joint planning seems to be efficient for the purpose with respect to the planning goals and institutional capacity to deliver them.

Currently vast majority of municipalities is too small to completely take over the agenda of spatial planning because they could not afford to employ permanent officers or hire private experts. For that reason inter-municipal cooperation seems preferable. In such setting smaller municipalities could join with core agglomeration and utilize its capacity for their planning needs for negotiated compensations or group of smaller municipalities could jointly employ or contract planning experts directly. The forms of cooperation would depend on individual municipal consortia arrangement.

Supra-municipal and agglomeration plans

Another form of inter-municipal cooperation should be formed on the supra-municipal and agglomeration level to prepare plans outlining supra-municipal and agglomeration-wide development strategy.

The main role of these plans should be to plan development distribution over the area of the whole agglomeration and jointly plan related public services and amenities provision and mobility. This level of planning should be largely incentive-based as municipalities complying with the defined agglomeration plan should receive subsidies for their development. While the agglomeration plan should belong to regional planning competencies the regional powers should primarily mediate process of drafting and discussing the plan and majority of consensus-building and plan preparation should rely on municipalities and municipal consortia in a given agglomeration. Commission of the plan should be steered by agglomeration planning board consisting of elected representatives from individual municipalities or municipal consortia.



As the agglomeration coordination problems are most severe in the high-demand rapidly growing areas the plans could as incentives use potential share of VAT tax revenue from new construction that would be collected on the level of agglomeration and then would be redistributed according to the plan. As for instance even half of VAT on new housing in the Prague agglomeration is annually several billions CZK, such budget would provide incentive large enough to motivate municipalities to comply with the agglomeration plan and to invest into projects that improve overall performance of the agglomeration.

Also other forms of providing financial resources to the agglomeration governing units could be proposed, for instance via existing European funds, but direct linkage of financial resources to new construction activity is especially appealing, because resources would be oriented to areas according to the local construction activity and local residential attractiveness (as the size of the funding would depend both on number of constructed units and their price).

An essential requirement is then to redistribute the agglomeration investment budget on the level of agglomeration governing body to incentivize individual municipalities to comply with the agglomeration plan.

Build on experience from ITI and include financial incentives

Both local and agglomeration inter-municipal consortia will be relatively weak entities and their establishment might not be easy. But as wider administrative reform is unlikely, this seems to be the most realistic yet efficient form of cooperation for cooperative planning and public services provision. Although less formal planning and management entities do not have a wide tradition in the Czech Republic it seems these types of organizations are gradually more used in other countries. The establishment of agglomeration and municipal joint planning boards could be based on experience from Integrated territorial investment boards (as well as similar tools used for smaller territorial units). As the aim is to integrate strategic and spatial planning and public services provision, the agglomeration boards should incorporate current competencies of integrated investment tools combined with strategic and spatial planning to secure holistic development approach from problem description, planning, finance allocation and project selection and management, to implementation and evaluation.

As it was already mentioned previously to motivate municipalities to cooperate in agglomeration or inter-municipal planning strong incentives are needed. For instance direct participation on tax collection and/or financial assistance via grants should be (at least partly) delivered through agglomeration governing body conditional on having adopted agglomeration plan.

The important condition for the agglomeration governance board is to be represented by municipal elected representatives to derive its legitimacy from locally elected representations. The agglomeration boards for practical reason cannot have representative from each municipality within an agglomeration as for instance, depending on delineation, in Prague agglomeration area are several hundreds of municipalities. Therefore small municipalities cooperating as a municipal consortium (with expected minimal size of 3000 to 5000 inhabitants) should be represented by sole delegate to the agglomeration board. Such a model would likely secure even the largest agglomerations to have less than 100 delegates. Another issue requiring careful considerations is how voting mechanisms in the agglomeration boards should work. Assigning votes by population size would likely lead to the dominance of core cities and would not be acceptable by suburban municipalities while assigning one vote per municipality would give disproportionately large powers to small suburban municipalities. The most reasonable seems combination of both rules. The drawback of the later principle is that it disincentivizes municipalities from mergers as they would relatively lose power in voting. This must be taken into account when setting detailed rules.

As it was mentioned, the establishment of agglomeration boards would not be easy, but the experience from establishment and management of ITI boards could be used, despite they are established differently.

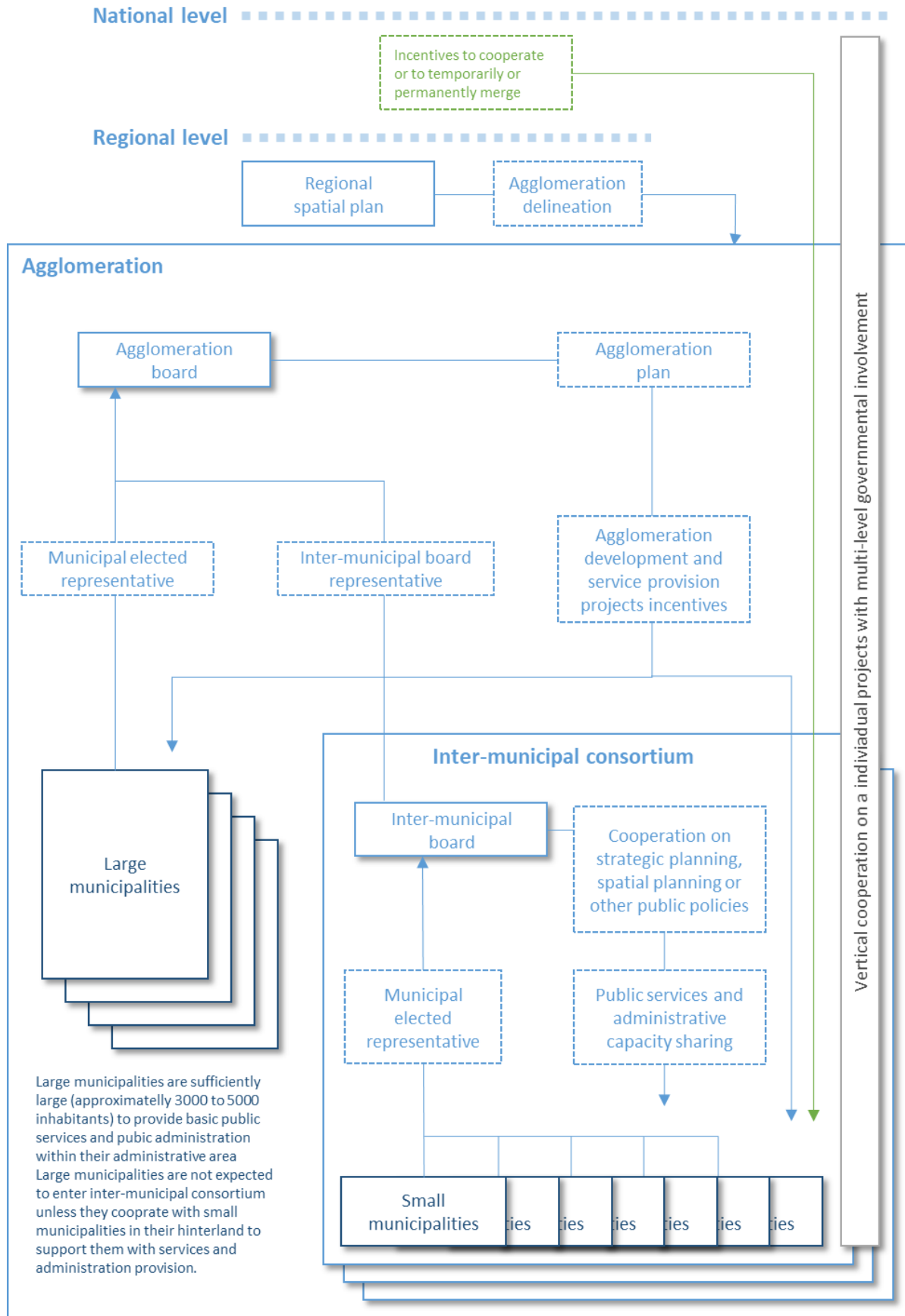
Vertical stakeholders' cooperation

In addition to cooperation at the horizontal level, multi-level cooperation of self-governing units should be promoted. This setting seems to be especially well-suited for large urban projects with regional or national importance. While local governments typically drives these projects, higher-level governments could secure long-term stability of the project, its funding and emphasis on wider goals of these projects for larger area. Stability brought to the project by the higher-level government could be also appealing for private actors who might be involved as partners in PPP set-ups.

Multilevel-governmental cooperation on major projects is not common. At the same time in case of large projects, such as transport hub redevelopment, new major connections or large urban re-developments, there are typically interests of more governmental levels on goals and characteristics of such projects. As a result it is beneficial to establish the project management structure from the beginning in such way that affected levels of government could represent their interests in the processes to deliver outcomes welcomed by all parties.



Figure 3: Inter-stakeholder cooperation diagram



2.4. Establish national Geoportal, process digitalization and improve expert support

Make underlying data accessible from one place

To ease spatial planning and spatial development analyses and evaluation, national geoportal of spatial data and spatial planning documents should be established. The primary aim of this service should be to link existing sources of spatial information and when possible allow to visualize them in a web interface and allow to download underlying data for more detailed analytical work.

The core datasets of the national geoportal should be administrative subdivisions, cadastral maps and local statistical data provided by the Czech statistical office linked to relevant administrative subdivisions from Elementary statistical units to regions. These core primary datasets should be supplemented with additional spatial data provided for drafting spatial planning documents.

Currently the underlying data and information for spatial planning are regularly updated in the Spatial analytical documents (UAP). The core data inputs for the documentation are nationally standardized, but the resulting collected datasets are not commonly published in the digital form to ease variety of following analyses. Large share of data used for planning are actually provided by various national agencies, such as Czech statistical office, Czech cadastral office and others. The National Geoportal should therefore link these datasets as well as should allow to upload data collected on the local level. This nationally standardized data base should allow to inspect the data online, generate reports and also to download spatial data for the purpose of spatial planning and all levels of government, for planning evaluation or research.

Present planning documentation

Next part of the geoportal should contain all spatial planning documentation from national to municipal level. In principle the interface should allow to project either nationally standardized features in a coherent way or project spatial planning documentation for each administrative unit in its original form.

It does not seem to be reasonable to nationally standardize spatial planning regulating documentation. However, digital standards are reasonable for efficient data exchange. In case of functional use defined in the current methodology we consider it to be a useful tool for land description and analytics being regularly done for Spatial analytical documentation (UAP). But current standardization is highly insufficient for regulatory-binding part of the spatial plan, however, shall be further discussed within legislative process. The built-up form typology, land-use intensity and height limits definition are currently underrepresented. With this respect we consider given standards as unbalanced and following prevalent functional-zoning planning. If spatial planning reform is initiated and there is a need for standardization much broader set of planning tools would have to be incorporated, including property tax zoning, amenity fee and impact fee zones or mobility zones.

While the data used for spatial planning should be standardized and they typically are as they are often collected by national agencies, the regulative spatial planning documentation has to respond to the local needs in the first place. In some cases local needs require the documentation to be much simpler as expected changes in the land-use are not significant and detailed documentation is therefore not necessary and efficient. On the other hand, there are areas where planning have to be more detailed to appropriately coordinate clashing interests. Also the need for particular form of regulation might differ. While larger cities might be willing to regulate function, form and intensity of land-use. The need for regulation for instance in rural areas might be very limited only to the developable and undevelopable land.

The spatial planning documentation on all levels of governments should have some standardized layers, such as indication of possible development, expected development capacity and few categories of functional use and planned infrastructure. These standardized layers should not be binding and should be rather informative for national-wide spatial planning monitoring and evaluation.

Original form of planning documents with their specific forms or regulation should be also accessible.

Use the system for discussing and commenting planning documentation

The system of national geoportal should also ease drafting and discussion of newly proposed spatial planning documents as draft versions of plans would be presented to all involved actors and stakeholders via this system. This would allow easier assessment of draft plans because the draft could be easily compared with earlier versions of the material and any other spatial planning documents and data stored within the national geoportal system. The digital delivery of the documentation would also ease and speed-up the process. On top of that digital and spatially defined comments would be easier to manage, comment and archive. These features of the system could be used not only for commenting plans in a public hearings, but more informally during the drafting



phases as a tools of digital public participation tools. Spatial planning should be more aware of opinions of local communities on development, but to obtain relevant data about local values or problems, especially in larger municipalities, is demanding using conventional means of public participation. For that reason a digital platform open for all community members to express their opinion could bring valuable source of information for more efficient spatial planning targeting problems local communities are facing. The topic is further developed in the open encyclopedia article.

Moving the process of drafting documents online has several benefits. First, even within the online application each user would be able to compare proposed spatial planning documentation with all past versions, with relevant documentations of upper-level or lower-level governments, with documentation of neighbouring self-governing units and with underlying spatial data. Second, online database system would simplify collection of comments of the documentation and would help with its further processing and archiving for future planning purposes. Third, as spatial planning documentation is expected to gradually utilize more digital technologies the digital delivery will allow to present the planning documentation fully in its digital form without a necessity to convert it into the paper-based document. Fourth, when all processes are done via an integrated planning platform it is easy to monitor and evaluate current state of spatial planning in general and analyse particular processes of commissioning individual plans.

Incorporate monitoring of permitting processes

The national geoportal should be also linked to the agenda of decision-making regarding permitting processes to allow all stakeholders to easily follow permitting processes of new construction.

This system of spatial planning and spatial development data environment should not only help to ease and speed up the planning processes and make them more transparent for all stakeholders, but should also provide nation-wide coherent data that could be later used for planning policies evaluation and better-suited data-driven policy responses.

Although the permitting process digitalization is currently being already prepared and likely will have its own database system, this system should be connected to the National Geoportal to allow monitoring of projects being currently permitted, to monitor their compliance with planning documentation and to allow easy evaluation of spatial planning policies and their effect on spatial development.

Establish an open encyclopedia of spatial data as a digital public participation tool

In a broader sense the national geoportal could gradually become an integrated platform with various access levels from all levels of government to general public. Layers completely open for public could bring new information very relevant for spatial planning that are currently missed and that makes it innovative tool for new responsive planning policies.

Current planning largely relies on formally collected data. Besides the traditional formal data modern digital technologies allows to involve diverse set of data provided by individuals. These data should not be supposed to substitute traditional formal data, but should add new layers of knowledge that could capture for instance perception of an area by locals, local values or problems. These soft data otherwise hard to obtain might be especially valuable for preparing initial planning drafts. The possibility to upload such local data should be allowed to anybody and the data structure should be relatively open to capture various phenomena. Existing examples of these principles of digital public participation with developed implemented digital inetrface are for instance http://hodnoty.mapovyportal.cz/TD020163V003_metodika.pdf and https://www.caqi.cz/upload/documents/konference/gisplan2016/webova_aplikace_pro_sber_hodnot_a_problemu_v_uzemi_pro_uap_peltan.pdf

Provide methodical support for decision-making

While most of competencies regarding spatial planning should be devolved to local governments there are many issues in which regional or national governments intervene to regulate activities that have either wider spill-over effects or that are of wider regional or national importance according to the defined planning competencies. Also the building permitting processes are within the national powers. To ease and make decision-making coherent upper level governments should provide expert support and guidelines for decision making to try to align local goals with goals of higher level governments prior mutual conflicts and potential judicial review.

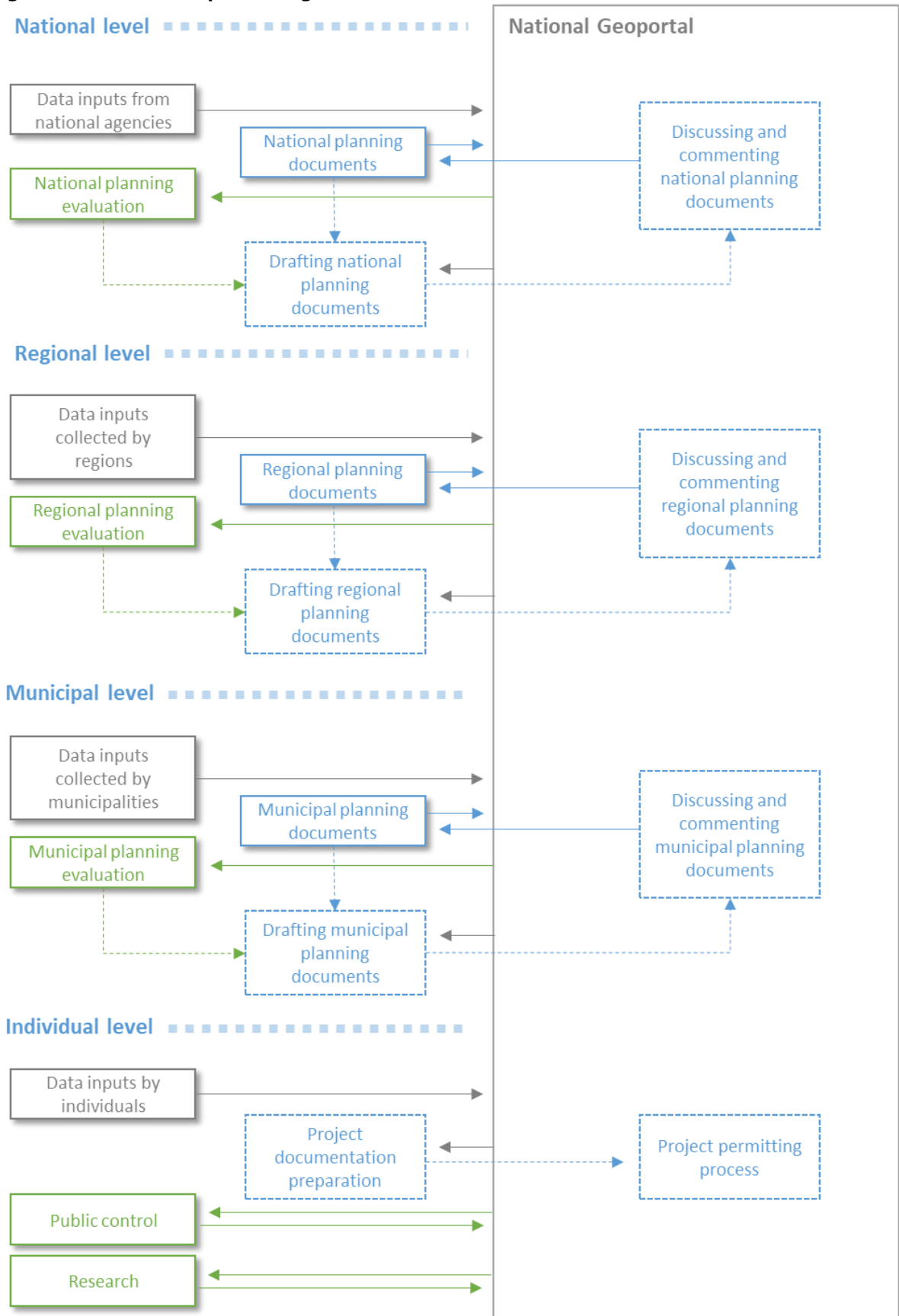


Nowadays there is a critique the permitting processes and requirements are inconsistent across individual permitting authorities. Despite some methodological support is provided it is considered not satisfactory. Besides the need for coordination of requirements for decision-making processes there are calls for instance for methodological guidelines that would describe model cases of projects approvals that might be constructed both on simple cases or on complicated cases that were later reviewed by courts. Especially in case of these complicated projects the recommended model decision-making processes would be valuable. It seems there was an attempt from the Ministry to prepare methodological guidelines for providing statements regarding spatial planning (<http://www.uur.cz/images/8-stanoviska-a-metodiky/neaktualni/01-zavazna-stanoviska-2018-01-12.pdf>). The guidelines are currently issued as a supportive material. Also local conferences for instance on regional level focused on sharing experience and good practice among individual permitting offices could help to make permitting processes more coherent.

All the proposed features and the functions of the National geoportal are visualised in the following Figure 4.



Figure 4: National Geoportal diagram



2.5. Promote effective judicial review

Two main types of disputes subject to judicial review are assumed: the review of spatial planning documentation, and second, conflicts between self-governing units and individuals regarding limitations of property rights that could be broadly called as “takings” as it is described in the English-speaking countries literature.

According to the Charter of Fundamental Rights and Freedoms, the property right could be limited only in public interest, by law and when just compensation is provided⁴. The aim of the spatial planning is to coordinate spatial development to deliver more favourable outcomes, but at costs of limitation to exert individual property rights. If the planning significantly affects value of individual property then the property owner should be compensated.

Potential disputes between self-governing bodies

All planning should be solely within competencies of self-governing powers on all levels of government according to the subsidiarity principle. It should be expected priorities and understanding of sustainable economic development will differ across levels of governments and there will arise struggles whether some proposals meet requirements of the upper level regulation and whether the nature of proposal should be considered on municipal, regional or national level. Due to these potential disputes could arise, it needs to be considered if the current system of the dispute solution between self-governing bodies is sufficient or if the proposed changes require changes in this matter as well.

In this presented concept of reform spatial planning competencies should belong to the self-governing body. Therefore, we do not assume statements by the national authorities protecting public interests to be obligatory for regional or local governments as it would mean inference of national government powers into regional and local self-governing powers. As a result self-governing bodies within their planning autonomy and with their responsibility should be able to propose and approve planning documentation of their choice. After the planning documentation approval there should be a given timeframe for a potential review of the documentation.

Review planning documents in a given timeframe

Every planning document should be reviewable by the independent court. The review should have clearly defined time period starting by the approval of planning document. After the end of the review period there should be no option to file the plan for review again.

The current judicial review of the spatial planning documentation has formed for last 14 years. Throughout this period, the courts have developed a constant case-law which helps nowadays in the judicial review. Also, some of the legislative changes have helped the system of review and the system seems to be rather stabilized.

However, the main shortcoming remaining is the possibility of so-called incidental judicial review which enables to review the spatial planning documentation under certain conditions even after the 1 year period set by law. This brings the uncertainty into the spatial planning both for the self-governing units and other stakeholders interested in the land-use of the given area. Based on the assumption that the common legal certainty should prevail, the potential breach of individual rights after the abovementioned 1 year period, the incidental review should be limited.

At this moment incidental review is bringing significant uncertainty into the spatial development as unexpected incidental review could rezone already zoned area for instance for less valuable functional use or lower land-use intensity. Both would lead to the decrease in market value of such property that would likely not be compensated. For that reason court review should be limited only to a given period. Currently the system of plans review is prone to be misused as there are missing reasonable fees to disincentivize from behaviour that's intention is purely to obstruct planning process. On the other hand even in the presence of fee it is likely somebody would file a court case if there is a serious consideration his or her rights were violated or in case when significant value of property is affected by the respective regulation.

⁴ Article 4, paragraph 11 of the Charter of fundamental rights and freedoms (Act no. 2/1993 Coll.).



Reference baseline given by strategic documents

When assessing spatial planning documentation in judicial review, the baseline given by approved strategic plan should be the core underlying framework against which plans subject of review are compared and assessed whether they do or do not comply with aims stated by the strategic plans. The role of the strategic plan should be to clarify goals of sustainable development in a given area that are the result of local political process. Despite the court should protect interests of minorities against will of majority, it should take into account the will of majority embodied in the strategic plan.

The strategic plan should constitute main development document of a self-governing body and should specify local development goals, future areas of intervention and in general local understanding of sustainable development priorities. This document should be a ground and baseline for other sectoral public policies. When these policies are later subject to court review the court should mainly consider whether the document meets goals stated in the strategic document.

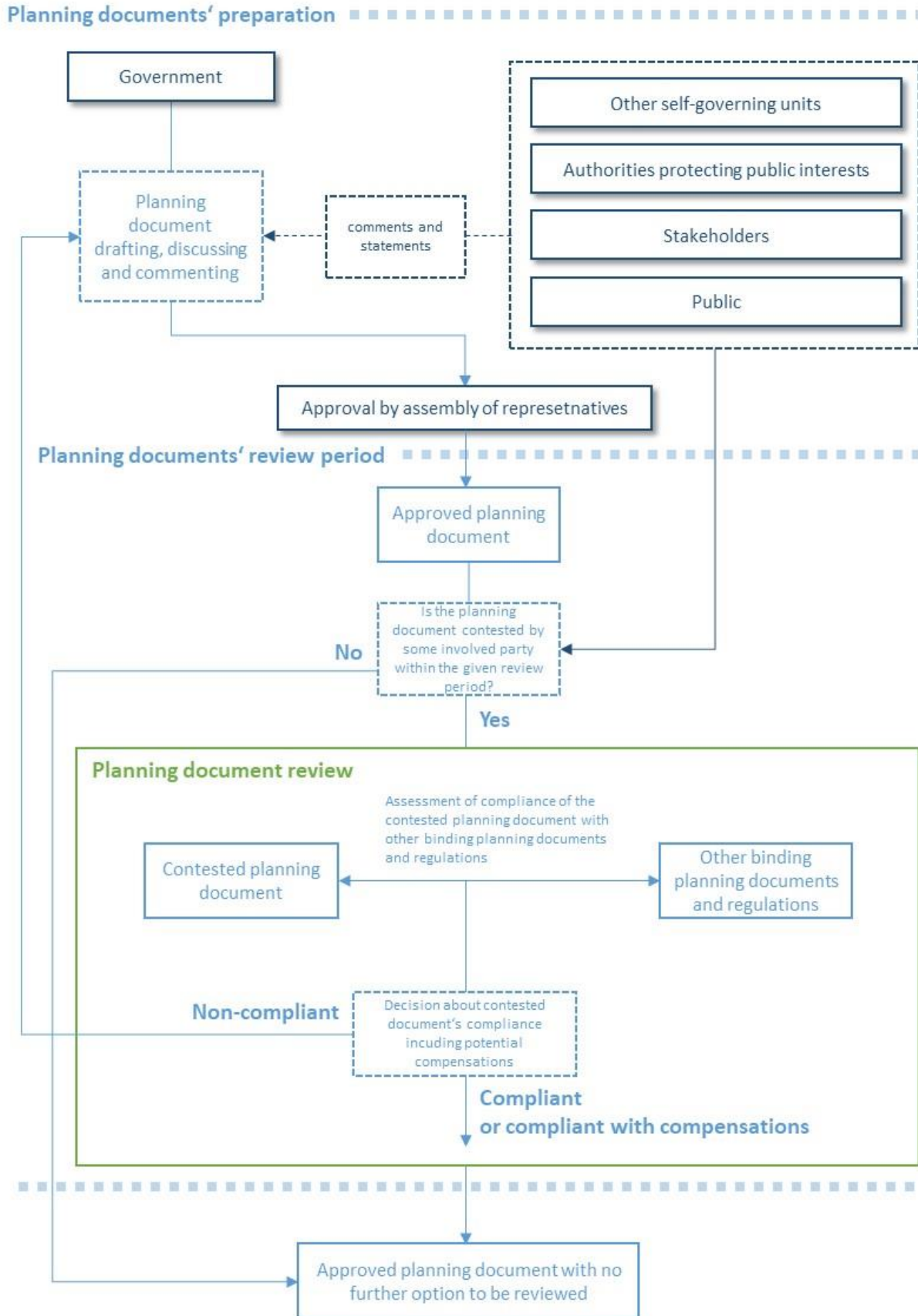
Deciding about planning documentation and considering just compensation

The courts should be also aware of the fact the spatial planning documentation irreversibly affects decision-making of vast number of actors and planning outcomes capitalizes into all affected property values. As a consequence, courts should always discuss optimal remedy beyond simple revocation of planning documentation that might cause much larger losses. Example of such a remedy could be material or financial compensation.

Currently the biggest drawback of the court review is a possible instability of planning documentation. Although spatial planning could significantly affect some individuals, its revocation is likely to cause by order of magnitudes higher losses. For that reason, revocation of spatial planning documentation should be considered as the most extreme solution in rare occasions and material or financial compensations should be preferred in less serious cases.



Figure 5: The role of court review diagram



2.6. Support public involvement and education

Participatory principles in the planning need some adjustments to improve their efficiency. In principle all parties should have an opportunity to express their opinion or comment to any plan, but it must be clearly defined to what extent their expressions should be considered and weighted against all other public and private interests as well as continuity of the opinions presented.

Public participation in an appropriate moment

In general, public participation should take place at the very beginning of any planning process when requirements and goals of plans are set. In this early stage public participation could bring important insights about problems various stakeholders face and that should be tackled by the planning documents.

Public involvement in the spatial planning process should take place earlier - at the time of forming the strategy and plan's objectives. While comments to the draft of a plan are also valuable, they must be taken as subjective by nature and often mutually exclusive.

Participate with appropriate stakeholders given the character and scale of plan

Given the scale and character of planning document specific groups of stakeholders should be approached to get involved in planning participation. In general, the more abstract given plan is, the more professionalized stakeholders should be invited to participatory part of planning. For instance, on the regional and national level especially stakeholders representing particular interest groups such as professional chambers, non-governmental organizations, representatives of academia and representatives of lower level governments should be involved. As the scale of planning becomes more detailed involvement of local major employers and local NGOs is desirable and on very local level involvement of general public is desirable.

The aim of the participation principles is not to exclude anybody, but to steer the participation the way that stakeholders with a specific knowledge of an area subject to planning could contribute. With this principle in mind, the more detailed the plan is, the more valuable is insight provided by local residents and conversely the more abstract and spatially large plan is the more valuable are insights provided by specific interests groups.

Set minimal participation requirements and individual participation plans

There should be given some minimal requirements on public participation in the process of preparing plans, but as local specifics widely differ principles of public participation should be outlined in the initial task for the planning document approved by the elected assembly. The initial task should contain participation plan that describes what participation methods with which stakeholders will be used during the plan drafting.

Having a participatory plan as a part of the task for the planning document should secure already at the beginning of the process appropriate involvement of relevant stakeholders. Defining participation principles in a participation plan at the beginning rather than requiring general participation conditions for all documents of some type seems to be reasonable to overcome different situations in which plans are commissioned. Participation in case of a spatial plan for a municipality of few thousands residents should have likely different form than participation of spatial plan in case of regional capital or Prague. Also there are different participation requirements if task for spatial plan is clearly defined in the strategic plan and most of clashes has been already solved in that plan or if strategic plan is rather general and many conflicting issues will have to be solved.

Support general public education regarding spatial development and planning

The awareness of spatial planning, its goals and tools is not high among general public. It seems there is no single action that could improve the situation. It is essential to perpetually communicate the planning process, resulting decisions and justifications for these decisions. All this material have to be accessible to general public yet informative in the key areas. Public lectures and exhibitions related to planning should be also supported.



Currently most of interest regarding municipal spatial plans is expressed by locals and property owners regarding very localized issues. This seems to be caused by the fact that spatial plan has become too detailed and allows to discuss these particular problems that should be rather discussed in the more detailed planning documentation. Discussions regarding urban spatial organization are not common despite these should be primarily in the focus of spatial plan. This partly reflects that general public is not so much interested in the general urban planning and is more concerned about very local issues related to their place of living and private property. Although it should not be expected majority of residents would become interested in spatial planning, more intensive information and promotion through public lectures and exhibitions might increase awareness of spatial planning as a part of municipal and regional policy-making.

Include spatial development and planning in general education

Potential for long-term increase in planning awareness is via its inclusion into the education framework. Some pilot projects oriented on urbanism are already being tested and experience gained in these projects could be used for wider implantation of these education modules. There was already elaborated project covering this issue: <https://www.mmr.cz/cs/ministerstvo/stavebni-pravo/publikace-a-odborne-texty/vyzkum-vhodnych-nastroju-ke-zvysovani-stavebni-kul>

Principles of spatial development and planning could be integrated into general education about environmental protection and sustainable development. Another option is to include this topic to civic education or geography as both of these courses are close to the topic of spatial development and planning.

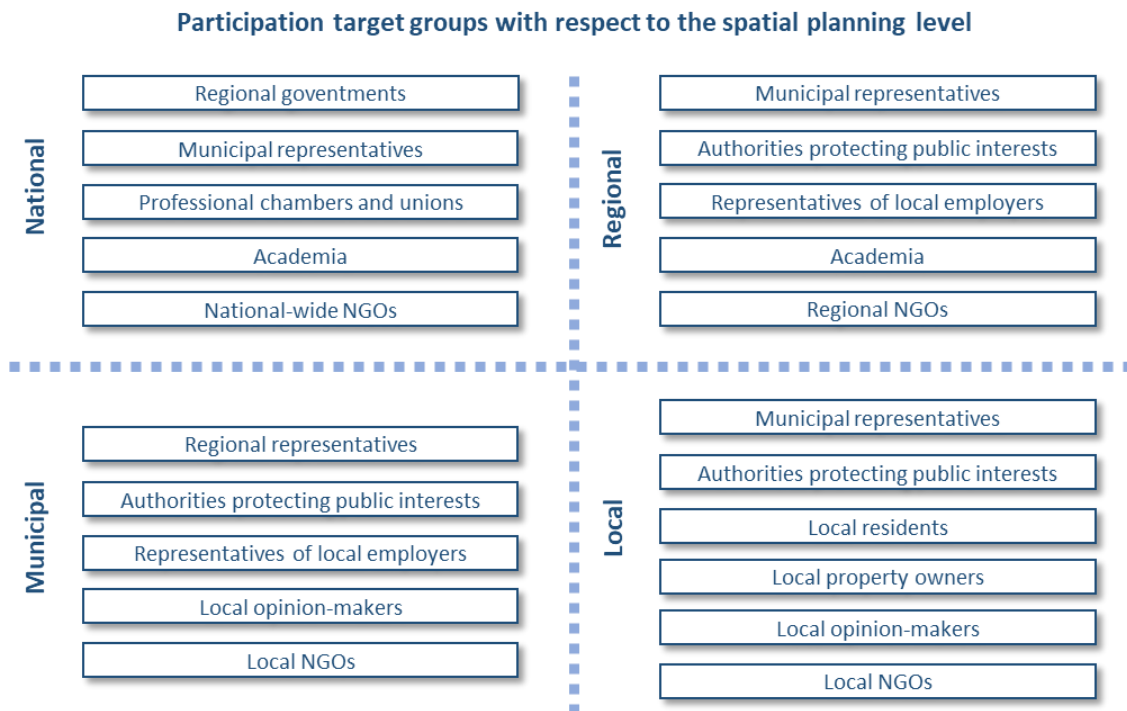
Improve education of planning experts

Experts in planning in the Czech Republic have various education background, commonly architecture and urbanism in case of spatial planning, but interdisciplinary urban planning programs common in the western countries are not being taught. It seems this academic scatterdness of the planning field is then reflected in the everyday practice of disconnected branches of planning. For that reason special urban planning tertiary education programs should be established to both educate new interdisciplinary experts and do academic research that could be later applied in following decision-making.

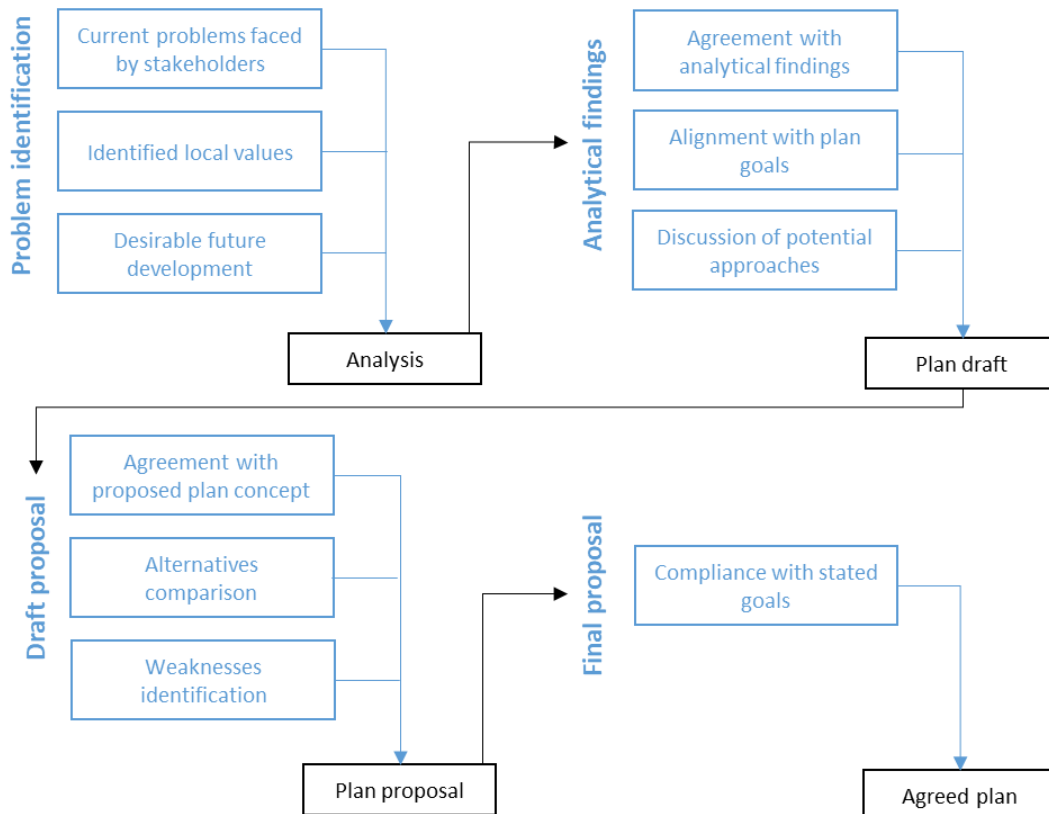
One of identified problem is relative distance between education of experts in the spatial planning and strategic planning that limits their cooperation and mutual understanding. While spatial planning experts have commonly their education background in technical programs or architecture and urbanism, experts in strategic planning have typically their majors in geography, regional studies, business administration or economics. It was mentioned experts with technical education background have often problems understanding abstract goals of strategic planning and its implementation in spatial planning while conversely strategic planners might have problems with understanding technical parts of spatial planning. This issue could be addressed by educating more interdisciplinary experts who would be prepared to work both on spatial and strategic planning tasks and to cooperate with experts from both branches of planning. Another identified problem was lack of cooperation between policy makers and academia. Promotion of the spatial planning education could be further strengthened by increased funding of research in the planning discipline focusing on policy relevant topics.



Figure 6: Participation principles diagram



Participation focus areas and goals in the document drafting phases



2.7. Potential reform implementation

Consideration of splitting the Building code and Spatial planning into separate acts

Currently both building regulation and spatial planning are regulated within the Building Act. There arise several arguments why it might be beneficial at this point to split building regulation and spatial planning between two separate acts, but it is unclear, at this moment, whether overall benefits of splitting the Act are higher than its shortcomings.

First of all, in principle, each act speaks to a different processes and range of stakeholders. While the Building Act gives a framework for the process of building permitting governed by the state transferred powers and focuses on approval when the project meets technical requirements, the Act on Spatial Planning would be primarily targeted on issues of spatial development that have to negotiate goals of sustainable development and that would be predominantly within competencies of a given self-governing level. This different nature of both acts rather supports their partition.

Separation of both acts seems also reasonable with respect to the current state of Building Act reform. The most discussed topics until now were reduction of involved state authorities, simplification of the process and separation the building authorities from municipal governments. While these changes were frequently commented, they are rather minor when compared to proposed reforms in the spatial planning system that need careful discussion among all involved stakeholders to make reform successful.

The Building code part of the Building Act defines processes in construction which goal is to independently assess whether requirements put on new construction defined by regulation were met. This process is rather technical and involves primarily the project owner and to lesser extent other parties directly affected by the project, such as immediate neighbours.

Unlike the Building code part, the Spatial planning part of the Building Act has a relatively broadly defined goal that could be simplified as a balanced sustainable development. The definition of local development goals within the framework of sustainable development are rather results of multi-lateral stakeholders' negotiation involving relevant stakeholders groups and levels of governments. All reasonable intentions good expressed by these stakeholders must be evaluated, especially in terms of their mutual conflicts, and such an evaluation should be a cornerstone for a proposed development path that should bring the highest overall social value. As it is expected some stakeholders could end up with a net loss even in case of a development path of the highest overall social value the process have to be based on negotiation and these negatively affected stakeholders should be compensated for their losses.

Also the Building code part of the Building Act is focusing on processes efficiency and their maximum lengths. While efficient processes that are reasonably short are essential for the building permitting processes, because their primary role is to confirm proposed buildings are designed according to existing technical requirements, the role of spatial planning is much more complex and short processes do not guarantee good planning results and desirable spatial development. If we think of spatial planning beyond current practice bounded by limited planning toolbox the spatial planning should be tightly connected to the strategic planning. The understanding of sustainable development given local circumstances and local development goals should be clearly defined in the strategic plan and later these goals should be implemented by a set of documents that together creates spatial planning documentation.

The advantage of splitting both acts is the difference of audience to what they speak as mentioned above, the nature of their agendas where the Building code is more oriented on technical aspects of building permitting while spatial planning is rather political agreement on goals of local development and also if reform of spatial planning is initiated Building code parts would not be opened again if the both acts are split into two. Another reason for treating spatial planning separately would make easier to integrate this act with Act on Support of Regional Development that would be highly desirable.

The drawback of splitting both acts is possibly lower coordination between spatial planning and building permitting processes that was guaranteed when both parts were integrated in one act.

Consideration of the goals and depth of spatial planning system reform

As it was shown in the analytical report, the major problems in the spatial planning system have been revealed and they cannot be easily changed. For major improvement in the area of spatial planning, a significant reform including cooperation of many actors on all levels of governments and involved stakeholders is needed. For that reason it seems unlikely these changes could be done without proper discussions and several rounds of comments and negotiations. For that reason it should be discussed on the governmental level with involved stakeholders what goals the reform should bring and aligned with that set the depth of the reform.

The presented Analytical report and Reform proposal report provide sufficient input for such a discussion. The analysis has also uncovered many problems of current spatial development and spatial planning are partly rooted in sub-optimal



division of powers between levels of government, low planning and fiscal autonomy of lower self-governing units and missing incentives for local economic development.

Preparation of the spatial planning reform management

As the reform of spatial planning systems seems to be rather complex and take several years to prepare and successfully implement it would be adequate to manage the whole process within a framework of project management with clearly defined responsibilities of involved parties. The project management framework should be set-up after the decision regarding the form and depth of the reform.

The establishment of project management structure should primarily help to make the process more predictable and secure that all involved parties are aware about current and future phases of reform preparation. The project management framework should define roles of parties in the reform proposal process, especially define the steering committee and project manager responsible for the progress of the reform preparation. Second, the framework should define what actors will participate on the reform preparation and what will be their responsibilities. Third, time framework for the reform should be given, especially with respect to the political cycle. It is expected the reform will span over more than 2 political cycles.

Preparation and discussion of the spatial planning system reform proposal

According to the project management framework, at first there should be initiated additional analytical works if some areas will be identified not to be covered yet. Then, the drafting of the complex reform should follow. During the drafting process several round of participatory meetings should be organized to collect feedback on the proposal and to steer the project development in the desired direction.

Implementation of the reform into legal framework

As the analysis has shown many current problems are not rooted in the Building Act itself, but either in the implementing decrees of the Building Act, or in other acts and their implementing decrees. To secure a smooth transition from the current legal environment to the reformed one, the whole set of reformed acts together with their implementation decrees should be discussed and approved together.



3. List of abbreviations and technical terms

CBD	Central business district in the monocentric city concept (Fujita, 1989)
CSU	Czech Statistical Office
DG – REFORM	The EU Commission’s Directorate-General for Structural Reform Support
EIA	Environmental impact assessment
ESU	Elementary statistical unit / Základní sídelní jednotka
MRD or the Ministry	Ministry of Regional Development of the Czech Republic
NIMBY	Not In My Back-Yard – opposition towards new development in local area
ORP	Municipalities with extended powers / Obce s rozšířenou působností
POU	Municipalities with authorized administration / Obce s pověřeným úřadem
PPP	Public private partnership
SEA	Strategic environmental assessment
SLDB 2011	2011 Census / Sčítání lidu, domů a bytů 2011
Spatial development principles	Binding spatial planning documentation on the regional level / Zásady územního rozvoje
Spatial plan	Binding spatial planning documentation on the municipal level / Územní plán
Systematic bias	Explained in detail in the Analytical report / Systémová podjatost
TIA	Territorial impact assessment
VAT	Value added tax



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5. Attachments

- Spatial planning reform diagram, v 1.0





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