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THE LAND DEVELOPMENT PLAN AS A LEGAL ACT AND ADMINISTRATIVE INSTRUMENT FOR PLANNING AND MANAGING THE DEVELOPMENT OF THE MUNICIPALITY. A LEGAL, POLITICAL AND SOCIO-ECONOMIC STUDY

PLAN ZAGOSPODAROWANIA PRZESTRZENNEGO JAKO AKT PRAWNY I ADMINISTRACYJNY INSTRUMENT PLANOWANIA I ZARZĄDZANIA ROZWOJEM GMINY. STUDIUM PRAWNE, POLITYCZNE I EKONOMICZNO-SPOŁECZNE

Abstract

The paper deals with the subject of the spatial development plan as a key instrument for managing the development of a municipality. The essence of the spatial planning process is presented, as well as the applicable legal rules and procedures for the creation of this document, together with a description of the competences of the various authorities and public institutions in the spatial planning process. It also presents a statistical view of the functioning of plans throughout the country. Particular attention was paid to the negative consequences of the lack of use of this instrument in the context of the development processes of territorial units. The analysis presented includes a legal analysis of planning processes, taking into account administrative proceedings, planning annuities and local development processes.

Streszczenie

W artykule podjęto temat planu zagospodarowania przestrzennego, jako kluczowego instrumentu prawno-administracyjnego usprawniającego zarządzanie rozwojem gminy. Przedstawiono istotę procesu planowania przestrzennego, obowiązujące reguły prawne oraz procedury przy tworzeniu tego dokumentu wraz z opisem kompetencji poszczególnych organów i instytucji publicznych w procesie planowania zagospodarowania przestrzeni. Zaprezentowano ponadto statystyczne ujęcie funkcjonowania planów na obszarze całego kraju. Zwrócono szczególną uwagę na negatywne konsekwencje braku wykorzystania tego instrumentu w kontekście procesów rozwojowych jednostek terytorialnych. Zaprezentowana analiza obejmuje analizę prawną i dmisnitracyjną procesów planowania, z uwzględnieniem postępowania administracyjnego, renty planistycznej oraz procesów rozwoju lokalnego.

Keywords: spatial planning, administrative procedure, political institutions, public institutions, local development management, investment attractiveness, local laws, code of administrative procedure, development charge, planning rent

Słowa kluczowe: planowanie przestrzenne, postępowanie administracyjne, instytucje polityczne, instytucje publiczne, zarządzanie rozwojem lokalnym, atrakcyjność inwestycyjna, akty prawa miejscowego, kodeks postępowania admisnitracyjnego, opłata adiacencka, renta planistyczna

Introduction

Development in general consists of positive changes of a quantitative and qualitative nature. It is a process based on endogenous and exogenous factors. Local development is a process of harmonised and systematic action of the community, public authorities and other entities functioning in a given territorial unit, aiming at creating new and improving existing utility values in a given territorial unit, creating favourable conditions for the economy and ensuring spatial and environmental order. Pursuant to the provisions of the Act on the Principles of the Development Policy, the development policy is defined as a set of interrelated activities undertaken and implemented to ensure sustainable and balanced development of the country, socio-economic, regional and spatial cohesion and to increase the competitiveness of the economy and create new jobs. Shaping local development policy requires a comprehensive approach. It is a process that should be planned, conscious, coordinated and steered by local structures, e.g. municipal authorities. As a rule, it is a long-term process, as the effects of pro-development activities are often distant in time. Development policy should be based on the activity of local communities. This is a labour-intensive and sometimes even innovative process. The creation of development policy is fraught with risk and therefore requires constant monitoring of effects and grading of progres (Wołowiec, Skica, 2013). This process requires integration and coordination, primarily because of: the interdependencies that exist in the development process; the individuality of the individuals who are involved in development initiatives; and the need for the local population to take an interest in development. The municipality's development policy should take into account, among other things: the geographical location, the structure of the economy and its specifics, the demographic situation and the local labour market, the technical and social infrastructure, the natural environment, the resources that can be used, the leading areas of development and the characteristics of the local community. Planning documents in the municipality are drawn up in order to coordinate activities and unify approaches to solving key development problems. They support the policy of sustainable development. The main instruments for the implementation of local economic policy are the local

development programme of the territorial unit, the study of conditions, the local development plan and the budget (Wołowiec, Reśko, 2014).

Spatial management it's the implementation of spatial policy – takes place in Poland at the municipal level in accordance with the Act of 27 March 2003 on spatial planning and development. The Act directs the allocation of land for specific purposes and establishes the rules for its development and use. Amendments to the Spatial Planning and Development Act introduced by the Revitalisation Act. Work is currently underway at the Ministry to amend the Act so that the principles of spatial management, e.g. minimising the development of new land, will be adapted to the needs of its users. The basic aim of the changes is to put the Polish space in order by, among other things, eliminating the possibility of chaotic development and gradually restoring spatial order. The Ministry has also produced the most important strategic document in Poland concerning spatial management – the Concept for Spatial Management of the Country 2030. It indicates necessary changes in spatial planning. The document: presents a vision of the country's spatial management until 2030, sets out the objectives and directions of the country's spatial development policy, indicates the principles according to which human activity should be implemented in space (Despot-Mładanowicz, Buliński, Wincenciak, Kosicki, Rypina, 2024).

Spatial planning

It should be borne in mind that planning and spatial order are an important element in the quality of social and economic life. In Poland, the concept of spatial order is still understood in terms of aesthetics and not the organisation of life. The lack of spatial planning means that investment activities in the country are often implemented on the basis of random, uncoordinated decisions. Scattered and non-functional development not only results in high costs, but also limits opportunities for future investment and development. It is therefore necessary to bring order to the processes of development and space shaping and thus, above all, to implement the principles of spatial order. Contrary to frequent opinion, it is not spatial plans that hinder investment, but the lack of them. Indeed, as the main tool of spatial management, plans provide stable

conditions for investment and avoid social conflicts at the stage of investment implementation. Increasing the role of spatial planning is therefore a necessary condition for improving the effectiveness of the spatial management system and eliminating barriers to development in the future (Gwiazdowicz, 2010).

The current planning chaos can be traced back to the period of political transition, when, in response to years of experience in a centrally planned economy, concepts of economic planning were rejected while the spatial planning system was significantly reduced. This was facilitated by the strengthening of the protection of private property rights and the empowerment of local government to support the realisation of individual interests and needs of residents. A manifestation of the rejection of planning restrictions was the introduction of the possibility of locating private investments on the basis of an administrative decision only, i.e. without a zoning plan. The obligation to draw up an development plan was also abolished, which in time led to the dissolution of municipal planning services. This reduced the possibility of influencing the orderly development of space and protecting the public interest.

In addition, as a result of the regulations adopted at that time, as of 1 January 2004, all local spatial development plans adopted before 1 January 1995 became invalid. In many places, this has led to a break in the continuity of planning and development of areas previously reserved for various public purpose investments. A particularly negative phenomenon is the dispersion of residential development. This is a manifestation of disregard for the principles of rational spatial management, the primary aim of which is the economical use of space and the protection of open areas. This kind of chaotic urbanisation occurs not only in suburban areas, but often affects rural areas. This use of space generates additional costs that are avoided in the case of a compact and rationally planned city or settlement. The result is increased costs for the construction, maintenance and repair of technical infrastructure: roads, pipelines, cables, lighting, transmission of heat, gas, water, sewage. This is accompanied by higher consumption of energy, means of transport and increased air pollution. The dispersed development of Polish villages makes it difficult to carry out effective water and sewage management in them. The irrational use of space also results in increased waste disposal costs, which hinders the creation of an effective municipal waste management system.

The effect of the dispersion of development is the progressive degradation of the landscape and reduction of its quality. What seems to be common today is not only a lack of concern for landscape quality, but also an awareness of the importance of landscape as an element of natural and cultural heritage, shaping national identity. Chaotic development and architecture detached from the local cultural context are irreversibly changing the landscapes typical of Polish regions. A glaring example of this is the change in the traditional landscape of the Podhale region, e.g. around Zakopane, which is being destroyed by uncontrolled development of open areas and an unlimited variety of architectural forms. Unfortunately, instead of strengthening the spatial planning system, solutions favouring uncontrolled use of space and further dispersal of development have recently been enacted. The amendment to the Act on the Protection of Agricultural and Forestry Land of 19 December 2008 eliminated regulations protecting against uncontrolled use of agricultural land for non-agricultural purposes. As a result, all agricultural land located within the administrative boundaries of cities was excluded from the provisions of this Act. In the absence of land use plans, the abandonment of the statutory protection of agricultural land in cities will, in effect, exacerbate spatial chaos and facilitate construction in areas without utilities (Kowalewski, 2009).

A tool for the implementation of the municipality's spatial policy is the local spatial development plans, which establish the purpose of the land and define the manner of its development and construction. The adoption of a plan is a basic condition for rational spatial management at the local level. However, in order to grade its effectiveness, it is important not only the size of the area covered by the plans, but also the nature of the area covered by the planning and the detail of the plan's provisions. Practice shows that despite an increase in the number of plans, the degradation of space cannot always be stopped.

Not every site needs to be covered by a plan (e.g. if it is to remain undeveloped land), so aiming for 100% planning coverage is not always necessary. Plans should enable rational spatial management. Research indicates that the implementation of this objective is not going well, as the planning work carried out generally does not cover the areas with the highest investment pressure. The problem of a lack of plans for intensively built-up areas is particularly evident in municipalities located in suburban zones of metropolises and large

agglomerations and in municipalities attractive to tourists and adjacent to nature conservation areas. It is common practice to draw up plans only for fragments of land or for areas of too small an area (less than 1 ha). As a result of the large fragmentation of the area covered by plans, neighbouring areas may therefore differ significantly in terms of planning arrangements. This situation makes it difficult to pursue a rational spatial policy (Reśko, Wołowiec, 2012).

In the absence of plans, the basis for granting permission for the implementation of investments are individual administrative decisions, the so-called decisions on development conditions, which were introduced into the planning system in the mid-1990s. Initially, this was a tool supplementing the arrangements of local plans, with time they began to be used in place of plans. The majority of planning permissions are now issued on the basis of zoning decisions. As a potential tool for selecting inappropriate investment ideas and shaping spatial order, the zoning decision therefore does not play a significant role. The replacement of local law acts (spatial development plans) with administrative decisions is the main problem of spatial management and the cause of spatial chaos.

The directions of reforms of the spatial planning system in Poland should focus on such proposals as (Reśko, Wołowiec, 2014):

- In addition to detailing the content of local plans, one of the important proposals is the introduction of a new planning instrument – the so-called local urban planning regulations (an act of local law), enabling the clarification of development conditions in the absence of a local plan.
- The widely criticised decisions on development conditions would be eliminated, and a new solution would be introduced in their place – the so-called urban development plan, taking into account the requirements of spatial order to a greater extent.
- The existing role of the planning document, namely the study of the conditions and directions of spatial development of the municipality, would be significantly expanded and strengthened. By clearly indicating the areas protected from development and the development areas, the study would set limits to chaotic urban sprawl.
- In order to ensure the realisation of supra-local public purpose investments, where an area is not covered by a local plan and urban planning

regulations, it would be possible to establish a temporary reserve of land in the form of a deed.

- Covering certain closed areas (e.g. areas belonging to the Polish State Railways) with spatial planning would make it possible to conduct a coherent spatial policy in cities.
- A new solution that could contribute to the improvement of the process of preparing planning documents is, for example, the introduction of the institution of a mediator – a person facilitating the solving conflicts accompanying the drafting of such documents.

Study of development conditions and the local spatial development plan

The shaping and implementation of spatial policy within the municipality is the task and responsibility of the local authority. However, the authority granted to the municipality to decide autonomously on how infrastructure, construction and recreation will be developed in its areas is not arbitrary. Actions in this respect are set out in the Act of 27 March 2003 on spatial planning and development, which defines in detail the manner in which work is carried out first on the municipality's spatial development conditions and directions study and then on the local spatial development plan.

The study of conditions and directions for spatial development of a municipality (hereinafter: study) is the basic spatial planning act of a municipality, which binds the head of the municipality (mayor, president) when drawing up a plan. The study defines the planned development of the entire area of the municipality in general, taking into account information on the location of areas earmarked for development, the course of the main transport routes or protected areas (Reśko, Wołowiec, 2013).

The study is adopted by the municipal council in the form of a resolution, but it does not have the status of an act of local law (just like, for example, the municipal development strategy). It is an internal document obliging municipal authorities to take actions in accordance with the directions set out therein. Municipal property owners should bear in mind that the solutions

adopted in the study do not directly affect their legal situation, do not shape their rights and, therefore, do not determine the permissible manner of land development. Any plan must comply with the provisions of the study under pain of nullity. Thus, if a municipality specifies in the study that a given area is intended for single-family housing and then, without amending the study, specifies in the local plan that the given area is to be used for agricultural purposes, the residents may effectively challenge the LSDP and seek its invalidation. Without an amendment to the study, the municipality cannot freely change the designation of the land in question (plots of land). As emphasised by the WSA in Poznań, the study serves the purpose of developing a new plan. It achieves this objective by eliminating the existing plan from legal circulation. Therefore, the provisions of the study pertaining to spatial development directions must be understood as pertaining to the plan in effect at the time of its preparation or enactment. Otherwise, it would mean giving full freedom to entities preparing a new plan, or the lack of any provisions regarding development directions (judgment of the Voivodship Administrative Court in Poznań of 4 September 2007, ref. II SA/Po 297/2007).

Development of a draft plan

The preparation of the study takes place in several stages. First, the Commune Council adopts a resolution to start preparing the study. It is an intentional resolution, and then the commune head (mayor, president) develops a draft study. When formulating spatial policy, the commune head should take into account all types of activities (social and economic activities) developed in the commune area, both current and planned, and which may have an impact on a given area (forms of development and development, or providing the area with technical infrastructure). Pursuant to Art. 10 section 1 development act the study takes into account the conditions resulting from the current purpose, development and development of the area, as well as the legal status of the land. In practice, this does not mean that the intended use of a given area cannot be changed (Judgment of the Provincial Administrative Court in Poznań of October 15, 2008, ref. no. II SA/Po 443/2008). For example,

the commune authority has the right to change the current designation of an agricultural area to a sports and recreational function, with the possibility of building open, non-enclosed sports facilities in the greenery. Changing the direction of spatial development of individual lands is most often beneficial to the owners and often meets with their opposition. It may happen that the current use of the area will be changed to become less attractive from the owner's point of view. It should be remembered that the Constitution allows for the possibility of limiting the right to property, but this restriction must be included in the act and cannot violate the essence of the right to property. The resolution on the adoption of the study belongs to the statutory planning authority and as such – when it is consistent with the law – may shape the scope of property rights. Therefore, for example, the allocation of an agricultural plot to forest areas must be legal. It does not deprive the citizen of the power over the property, but only limits the possibility of exercising it.

Elements of the study and its legal, administrative and planning conditions

The study is a document consisting of a text (descriptive) and graphic part. The content that the draft study should contain is specified in the regulation of the Minister of Infrastructure of April 28, 2004.

According to its content, the study project should include:

1. part specifying the conditions referred to in Art. 10(1) of the Act, presented in text and graphic form;
2. text part containing arrangements specifying the directions of spatial development of the commune;
3. a drawing graphically presenting the arrangements specifying the directions of spatial development of the commune, as well as the boundaries of the areas referred to in Art. 10 section 2 of the Act;
4. justification containing explanations of the adopted solutions and a synthesis of the findings of the study project.

The draft study should specify the impact of conditions – on determining the directions and principles of spatial development of the commune – referred to in Art. 10 section 1 of the Act, i.e., among others: the current purpose, development and development of the area, the state of spatial order and the requirements for its protection, the state of the environment, including the state of agricultural and forest production space, the size and quality of water resources and the requirements for environmental, nature and landscape protection cultural heritage, the state of cultural heritage and monuments and contemporary cultural goods, living conditions and quality of residents, including protection of their health, threats to the safety of the population and their property, needs and development opportunities of the commune, legal status of land, occurrence of protected facilities and areas, occurrence of natural areas geological hazards, the presence of documented mineral deposits and groundwater resources, the condition of communication systems and technical infrastructure, including the degree of orderliness of water and sewage, energy and waste management, and tasks aimed at implementing supra-local public goals.

The draft drawing of the study of conditions is prepared on a copy of a topographic map from the state geodetic and cartographic resource or on a copy of a military topographic map at a scale of 1:5000 – 1:250000.

The study takes into account conditions resulting in particular from:

1. directions of changes in the spatial structure of the commune and in the intended use of areas;
2. directions and indicators regarding the development and use of areas, including areas excluded from development;
3. areas and principles of environmental protection and its resources, nature protection, cultural landscape and health resorts;
4. areas and principles of protection of cultural heritage and monuments and contemporary cultural goods;
5. directions of development of communication systems and technical infrastructure;
6. areas where public purpose investments of local importance will be located;
7. areas where public purpose investments of supralocal importance will be located;

8. areas for which it is mandatory to prepare a local development plan on the basis of separate provisions, including areas requiring consolidation and division of real estate, as well as areas of distribution of commercial facilities with a sales area of more than 400 m2 and areas of public space;
9. areas for which the commune intends to prepare a local spatial development plan, including areas requiring changing the intended use of agricultural and forest land for non-agricultural and non-forest purposes;
10. directions and principles of shaping agricultural and forest production space;
11. areas of particular flood risk and areas of landslides;
12. objects or areas for which a protective pillar is designated in a mineral deposit;
13. areas of extermination monuments and their protection zones and restrictions on conducting business activity there;
14. areas requiring transformation, rehabilitation or recultivation;
15. boundaries of closed areas and their protection zones;
16. other problem areas, depending on the conditions and development needs in the commune.

Article 10(1) 2 of the Spatial Development Act. contains typical elements of the regulatory part of the study. It seems that in the content of the study, contrary to the regulations provided for in section 1, there is no obligation to refer to each of the directions of spatial development of the commune included in Art. 10 section 2. However, if the planning intentions indicate that the development of the commune's spatial policy includes the activities specified in section 2 of the intentions or if these intentions are outside the catalog included in this provision, the provisions regarding the implementation of the planned projects should be precise enough to enable a plan to be prepared on their basis or a decision on the conditions of development and land development to be issued in accordance with the intentions of the authors of the study. (Bąkowski 2004). A similar position on this issue was expressed by the Supreme Administrative Court in one of the judgments issued when the Spatial Planning and Development Act was in force. According to the Supreme Administrative Court, the requirements regarding both information

and regulatory elements should be interpreted not only linguistically, but also purposefully, taking into account the purpose the study is to serve. Therefore, it cannot be maintained that the requirement to include a given element in the study is already met if anything has been written about it at all and it has been defined in some way. This requirement is met only when it has been written about it in such a way that specific directives for the future can result from it, allowing for the creation of a spatial development plan *coherent* with the study. The provisions of the study are therefore inconsistent with act when they do not implement the provisions of a specific statutory norm, as well as when their *general nature* and *general nature* do not allow the achievement of the objectives that the study is intended to fulfill (Judgment of the Supreme Administrative Court of June 25, 2002, II SA/Kr 608/02). Therefore, the content of the municipal study may include provisions on the obligation to prepare local development plans in some areas. This obligation results either from „separate regulations or from the intentions included in the study (consolidation and division of real estate, arrangement of commercial facilities with a sales area exceeding 2,000 m2, planning of public space areas in the areas specified in the study). However, the obligation to prepare local development plan cannot be derived from from the content of the provisions in relation to the areas for which the commune intends to prepare a land development plan, including areas requiring a change in the intended use of agricultural and forest land for non-agricultural and non-forest purposes.

Residents' conclusions and comments

After the council adopts a resolution on starting to prepare a study of conditions, the commune head (mayor, president) is obliged to announce in the local press and in the form of a notice, as well as in any other way customary in a given commune, information about starting to prepare the study. It also specifies the form, place and deadline for submitting study applications. This deadline cannot be shorter than 21 days from the announcement, and is counted from the day on which the information was disseminated in each of the forms provided for by law and custom. As the Supreme Administrative

Court emphasized, the right to submit applications for the study is not based on the legal interest of the applicants, nor do they become parties to such proceedings. This results from Art. 7 of the Act on Spatial Planning and Development, which provides, among others, that decisions of the commune head (mayor, president) not to take into account the conclusions of the study of conditions (as well as comments on the draft study at a later stage of the planning procedure) are not subject to appeal to the administrative court. The fact that in the study area a resident has the right to property ownership does not mean that there is a legal interest that is protected by specific legal measures available to the owner in the planning procedurę (Judgment of the Supreme Administrative Court of September 4, 2009, ref. no. act II OSK 1359/2008).

Document review procedure

After disseminating information about the resolution, the commune head (mayor, president) notifies this fact in writing to the institutions and bodies competent to agree on and give opinions on the draft study. Then, it begins to prepare a draft study, considering applications from interested parties and taking into account the provisions of the voivodeship spatial development plan. In the absence of such a plan or if government tasks are not included in the voivodeship's spatial development plan, it takes into account the provisions of government programs aimed at implementing public purpose investments of national importance. After preparing the draft study, the commune authority (mayor, president) must obtain an opinion from the relevant committee of the commune council, which has an advisory and opinion-giving function. The commune head (mayor, president) first requests approval of the study project with the voivodeship board regarding its compliance with the provisions of the voivodeship's spatial development plan and with the voivode regarding the project's compliance with the provisions of national programs. It also requests opinions on the solutions adopted in the draft study from many bodies and entities listed in the Act (Article 11 point 6 letters a-m), i.e.:

a. district starosta (mayor of II level of LGU's),
b. neighboring communes,

c. the competent provincial conservator of monuments,
d. competent military, border protection and state security authorities,
e. the director of the relevant maritime office in the field of development of the technical belt, protective belt and sea ports and marinas,
f. the competent mining supervision authority regarding the development of mining areas,
g. the competent geological administration authority,
h. the minister responsible for health matters regarding the development of health resort protection areas,
i. director of the regional water management board for the development of areas at particular flood risk,
j. regional director of environmental protection,
k. the President of the Office of Electronic Communications in the field of telecommunications,
l. the competent authority of the State Fire Service and the voivodeship environmental protection inspector in the scope,
m. the competent state provincial sanitary inspector.

It should be assumed that if the form of cooperation referred to in Art. 11 of the Act on Spatial Planning and Development takes the form of an *opinion*, the authority preparing the study is obliged to analyze the content of the opinion of the entity giving the opinion as a component of the evidence, but is not obliged to take it into account. If the commune head (mayor, city president) was obliged to agree on the study project with the entities listed in Art. 11 of the Spatial Planning and Development Act, the position obtained in this form should be considered absolutely binding (Judgment of the Supreme Administrative Court of April 20, 2010, II OSK 337/2010). As a consequence of the comments presented above, the opinions of: the urban planning and architectural commission, – the poviat staroste, neighboring communes, the voivodeship conservator of monuments, military authorities, border protection and state security authorities, the director of the relevant maritime office, the relevant mining supervision authority, etc. competent for health matters, are necessary in order to make appropriate decisions regarding the content of the study being prepared, including possible changes to the provisions

of the project being developed, and the conclusions contained therein are subject to assessment by the authority conducting the planning procedure. In turn, the arrangements of the voivodeship board and the voivode have a binding impact on the content of the project presented to them.

The requirement to obtain a position on the study design depends on the conditions of the area, its location and properties. For example, the opinion of the director of the maritime office or the competent mining supervision authority is necessary in cases where the area covered by the study project includes areas under the jurisdiction of the maritime administration or mining areas, respectively. In turn, the need to agree on the study project with the voivodeship board regarding its compliance with the voivodeship's spatial development plan occurs when the above-mentioned plan is in force in a given area. Similarly, arrangements with the voivode regarding the compliance of the study project with the provisions of programs containing government tasks for the implementation of public purpose investments of national importance will be justified and required only if the implementation of these tasks is planned in the area covered by the work on the study. In this case, government tasks should be included in the voivodeship development plan. Otherwise (in the absence of a voivodeship plan or if the tasks in question are not included in its provisions) there is a concern whether the commune authority had information about government projects. Therefore, in order to maintain due diligence, the commune head (mayor, city president) should in each case contact the voivode to agree the project with possible government tasks. After completing the stage of giving opinions and agreeing on the draft study, the commune head (mayor, president of the city) compares the content of the arrangements and included opinions with the existing draft study and, in the event of any discrepancies between these documents, makes appropriate adjustments to the draft. The version of the future study thus determined is made available for public viewing.

The participation of the local community and other entities interested in planning projects in the commune area is expressed in the right to access the presented project. An undoubted novelty introduced into the procedure of preparing a municipal study is the *public discussion* on the solutions adopted in the draft study. The Act does not define the concept of *public discussion* and does not provide for any particularly specific formula for it. Therefore, it should

be recognized that the formula of the discussion, the organization of which is one of the obligatory elements in the procedure of creating a study, depends on its organizer, i.e. the mayor (mayor, president of the city). Another, also new, form of public participation in the preparation of a municipal study are comments on the project submitted by natural and legal persons, as well as organizational units without legal personality. The institution of comments on planning projects prepared by public administration entities also applies to local development plans, replacing previous protests and allegations. Taking into account the provisions of Art. 18 of the Act on Public Procurement, it could be assumed that a comment to the draft study expresses disapproval (questioning) of the finding or arrangements adopted in this draft. It is submitted to the authority preparing the project. This body, i.e. the commune head (mayor, president of the city), is also the *first instance* body for considering comments. The subject of comments may be the indication of alternative solutions in relation to specific areas covered by the project, i.e. matters regarding the future content of the study. It seems that there are no obstacles to comments of a formal nature, for example comments questioning the arrangements adopted in the draft. The decision of the commune head (mayor, city president) regarding the submitted comments is determined by the principles of the commune's planning freedom and the commune's planning authority. This means that the criterion for assessing the validity of the comment should be the broadly understood planning policy of the commune, which is in accordance with generally applicable legal provisions, including the provisions of the Act on Public Prosecutions. and with spatial planning acts from public administration entities at supra-local and central levels, to the extent that legal provisions require the study to be consistent with these acts. Therefore, if a different solution presented in the comment is consistent with the above-mentioned requirements, it should be taken into account and incorporated into the study design (Wołowiec, 2022).

Costs of implementing the commune's spatial policy

The financial effects of conducting spatial policy by a commune can be divided into two categories (Czekiel, Świtalska, 2005). The first category includes direct expenses related to the preparation of the plan or its change, i.e. the costs of paying compensation, expropriation of real estate designated for public purposes in the plan, or a decrease in real estate tax revenues. Potential revenues may come from revenues from the planning annuity or an increase in property tax revenues. The second category is the indirect financial effects of implementing spatial policy. These effects appear in the longer term and are related to the construction of the necessary technical infrastructure (costs related to investment outlays and revenues from adjunctive fees), revenues from local taxes and fees, revenues from the commune's shares in income taxes, or reducing or increase in the local unemployment rate (implementation of new or limitation of investments in the area covered by the plan).

E.Czekiel-Świtalska the financial consequences of adopting or amending the local spatial development plan are described by the formula: $B = Kp + Pn \pm O \pm Rp$, where: B – change in the commune budget caused by the adoption of the plan or its amendment, Kp – costs related to the preparation of the plan, Pn – difference in real estate tax (revenues from tax before the adoption of the plan minus the value of tax collected after the adoption of the plan or its amendment), O – profits or losses resulting from Art. 36 of the Act on Public Procurement, Rp – costs and profits related to the implementation of the provisions of the plan or its change within a specified period of time (e.g. 5 years); this amount is balanced by the formula depending on the needs, e.g.: $Rp = \pm Po \pm S - I + A$, where: Po – tax on natural and legal persons, S – difference in the amount of the sum of real estate sales before and after the adoption of the plan or its changes, I – costs related to the construction of technical infrastructure, A – enhancement fees. The costs of preparing the plan are borne by the commune regardless of the content of the adopted local development plan, without the possibility of spreading them over time (Piórecki, 2012).

Conclusions

To sum up, it should be stated that the essence of planning at the local (municipal) level is to create substantive and formal and legal bases for the implementation of projects planned at all levels of spatial planning. According to A. Potoczek, the basic function of planning at this level is the regulation and implementation of programs and tasks, which requires high detail of arrangements regarding the forms and methods of land use and utilization. The three levels of spatial planning are complementary to each other. Therefore, they create a hierarchical system, but without arbitrary subordination. Honoring mutual agreements is in the interest of each level and the country as a whole. The considerations presented above clearly show that the spatial development plan is one of the most important instruments of local development policy, determining its level and dynamics, which is also reflected in the socio-economic development of the region in which a given commune is located and, to some extent, at the level of national.

The arguments presented above proving the extremely important role of spatial planning processes in improving the quality of life of local communities should be reflected in the number of communes in which such plans are in force, and more precisely, it is to indicate the area of the entire country covered by the adopted local plans. The very important role of the spatial development plan in shaping the development processes of territorial units, in particular at the municipal level, leads to the conclusion that local government units should treat this instrument as a priority in management processes. Undoubtedly, one of the barriers that hinder the implementation of planning processes are the very high costs of implementing plans, which expenses must be borne only by communes when carrying out their own tasks. This argument, often raised by local government officials, is unconvincing to say the least. According to the authors of this study, all expenses, however significant, for the implementation of the development plan should be treated not only in strictly spatial terms, but also in investment terms, with a specific, attractive rate of return. Thanks to the use of this instrument, the commune not only achieves the much-needed organization of space, but also gains the opportunity to effectively sell municipal property, the price of which

depends to a significant extent on the intended use of the area specified in the spatial development plan, which allows for an increase in revenues to the unit's budget. Moreover, after the adoption of a spatial development plan, the municipal government unit gains the opportunity to conduct active activities in the area of territorial marketing and economic promotion, i.e. shaping and positioning investment offers and, ultimately, attracting investors who will guarantee a number of benefits for local communities by implementing the planned investments (increase in jobs, various types of tax revenues to the municipal budget, etc.). Attention should also be paid to the important role of the spatial development plan in the implementation of investment processes in terms of time – the investment preparation process is shortened to a minimum, which is also an important factor from the point of view of the development of municipalities. According to the authors of this article, one of the reasons for such a low planning coverage rate in Poland is the lack of will on the part of local government authorities of many units, resulting from the fact that the executive bodies of municipalities do not want to deprive themselves of influence on investments implemented in the area of a given unit. Therefore, they want to decide on the actions of all entities: investors, individuals, institutions, etc. using discretionary instruments, not always based on substantive criteria. The consequences of this type of practices are very negative: domination of official power, official or political discretion of the commune (mayor, president), investment and spatial chaos, possibility of corruption practices, reduction of budget revenues by limiting the sale of property and other budget revenues (taxes, fees, pensions). planning), extended implementation time of all investment processes.

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