

SPATIAL PLANNING IN POLAND IN THE CONTEXT OF 'INSPIRE' RULES AND AMENDMENT TO THE SPATIAL PLANNING AND DEVELOPMENT ACT¹

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Summary

Spatial planning is a vital aspect of social and economic development of a country. Spatial planning in Poland is regulated by the Spatial Planning and Development Act of 27 March 2003 and should be implemented in conformity with the EU Directive Establishing an Infrastructure for Spatial Information in the European Community (INSPIRE). In the study an assessment of the spatial planning system in Poland in the light of existing legislation has been carried out, and a SWOT analysis has been performed, showing the planning' strengths and weaknesses, opportunities and threats, and the most immediate needs to be met – in the context of amendments currently being drafted – have been indicated.

Keywords

spatial planning in Poland • INSPIRE • SWOT analysis

1. Spatial planning in Poland according to existing legislative acts

Spatial planning is a part of general social and economic planning and is understood as an entirety of institutions, methods and actions ensuring rational management of space [Gawroński 2007]. The existing legislation regulating spatial planning in Poland is the Spatial Planning and Development Act of 27 March 2003 [Dz. U. (Journal of Laws) 2003, Nr 80, poz. 717] together with implementing acts. The Spatial Information Infrastructure Act of 4 March 2010 [Dz. U. 2010 Nr 76, poz. 489] is also worth noting, as it introduces into Polish law the provisions of the Directive 2007/2/EC of The European Parliament of 14 March 2007 'Infrastructure for Spatial Information in the European Community' (INSPIRE). Spatial planning in Poland is implemented

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on a national, voivodeship and communal level. On a national level it is a matter for Council of Ministers, which develops a project of spatial development of the country, being only a set of general guidelines, and having analytical and information function [COMMIN 2007]. Guided by the principle of hierarchy of spatial plans, the act imposes an obligation to harmonize local plans with spatial development plan of a voivodeship [art. 17, p. 6, Dz. U. 2003 Nr 80, poz. 717], and the latter plan with decisions on spatial development plan for the whole country [Dz. U. 2003 Nr 80, poz. 717, art. 39, p. 4], though in practice it does not mean that one is superior to the other. On the level of a commune the act distinguishes: a study of conditions and directions of spatial development (SCDSD), with analytical, coordinative, informational and in a less degree decision-making function, and a local plan of spatial development (LPSD) of a commune with a decision-making function [COMMIN 2007]. According to the Act, SCDSD is a planning document determining spatial policy of a commune [art. 9, p. 1, Dz. U., 2003 Nr 80, poz. 717], but it is not an act of a local law. Moreover, in the plan COMMIN [2007] two remaining functions of SCDSD are referred to: as an act defining policy of economic development and promoting a commune among potential investors, directly influencing its economic activity [art. 4, p. 1, Dz. U. 2003 Nr 80, poz. 717].

The Spatial Planning and Development Act of 27 March 2003 [Dz. U 2003 Nr 80, poz. 717] specifies the procedure of drawing up local development plans and their required scope and content, and introduces a division into text and graphic parts, which are annexes to the resolution of a commune council to adopt the study [art. 12, p. 1, Dz. U. 2003 Nr 80, poz. 717]. The process of drawing up local plans has two significant elements: participation of citizens through making remarks [art 17, p. 11, Dz. U. 2003 Nr 80, poz. 717] to solutions adopted in the plan, and by an exchange of views during public discussions [art. 17, p. 9, *ibidem*]. Moreover COMMIN [2007] suggests that combining local plans with development strategies embracing economic and social determinants is an increasingly frequent practice. In spite the lack of legal requirement to adopt a strategy, a growing number of communes chooses such solutions due to their positive impact on the process of spatial planning. According to art. 1, point 1 [Dz. U. 2003 Nr 80, poz. 717], all activity related to spatial planning in Poland should respect the principle of spatial order, adherent to the sustainable development principle, understood in view of art. 3, point 50 [Dz. U. 2001, Nr 62, poz. 627] as a social and economic development, in which integrating process of political, economic and social actions takes place, while respecting natural equilibrium and durability of basic natural processes with the aim to satisfy fundamental needs of communities or citizens of current and future generations.

The Spatial Information Structure Act of 4 March 2010 introduces into Polish law the notion of spatial data understood as data referring directly or indirectly to a definite geographical position or area [art. 3, p. 1, Dz. U. 2010 Nr 76, poz. 489]. Spatial data sets described by metadata, services for discovering, browsing, downloading and processing of these set [art. 9, p. 1, Dz. U. 2010 Nr 76, poz. 489], as well as technical tools, processes and procedures used and made available by government administration bodies and third parties, according the Act, form infrastructure for spatial information in Poland [art. 3, p. 2, Dz. U. 2010 Nr 76, poz. 489]. Based on art. 4, p. 1 [Dz. U. 2010 Nr

76, poz. 489] one of the conditions to categorize spatial data as infrastructure for spatial information is its digital form. The data must also belong to at least one of the spatial data themes defined in the Annex to the Act [art. 4, p. 1, Dz. U. 2010 Nr 76, poz. 489]. In the context of the issue discussed in this section the theme called 'spatial development' described in third thematic group is particularly noteworthy.

Art. 21, p. 1 of Directive 2007/2/EC of The European Parliament and of the Council of 14 March 2007 Establishing an Infrastructure for Spatial Information in European Community (INSPIRE) requires member states to monitor and report to the European Commission the progress of building national infrastructure for spatial information, and a decision by the Commission of 5 June 2009 on implementation of the Directive 2007/2/EC of The European Parliament and of the Council [Commission Decision 2009/442/EC] as regards monitoring and reporting defines detailed principles of these actions. Affek [2013] tried to analyse the implementation of Directive INSPIRE in a theme 'spatial development' for Poland in 2012, using in his research a DSi1.3 index [art. 5.b.iii, Decision 2009/442/WE], which defines the extent to which the country is covered by spatial data sets that correspond to themes listed in the Annex III [Dz. U. L 108 25.4.2007, p. 1]. Affek [2013] notes that to calculate Dsi.1.3 *Land Use* index, it is necessary to know the relation of the area currently covered with spatial data sets, being part of the theme 'spatial development', to the area that should be covered by such sets. In line with the opinion of the Ministry of Transport, Construction and Maritime Economy of 29 May 2013, spatial data sets within the theme 'spatial development' are: spatial development plan as a basic set and study of conditions and directions of spatial development of a commune and a local recovery plan as additional sets [BP-ILP-075-5/13 no 2120, 2013]. Affek [2013] states that in a report for 2011 submitted by Poland the current area and the area essential for the theme 'spatial development' was not calculated. Based on the study commissioned by the Ministry of Transport, Construction and Maritime Economy and carried out by Centre UNEP/GRID in Warsaw, in cooperation with the Institute of Geography and Spatial Organization of the Polish Academy of Sciences (PAS), the size of the essential and current area in the theme 'spatial development' as of 2012 was determined, choosing for the analysis three sets of spatial data: the set of studies of conditions and directions of spatial development (SCDSD) for communes, the set of local spatial development plans (LSDP) indicated in the study SCDSD, and the set of studies (SCDSD) and local plans (LSDP), while simultaneously assuming that the data sets have digital form (GIS or georeferenced CAD) [Affek 2013]. The studies demonstrate that there is 9% probability that from 91.7% to 96.9% of communes do not have spatial data sets SCDSD and that from 94.92% to 98.78% of communes do not have metadata SCDSD that would be compatible with INSPIRE. Moreover, with 95% probability, from 85.1% to 92.1% of communes do not possess spatial data sets LSDP and from 96.63% to 99.62% of commune do not possess metadata LSDP that would be compatible with INSPIRE [Affek 2013]. DSi1.3 index for each theme of Annex III to Directive [Decision 2009/442/WE 2009] is represented as quotient of the current area to the essential area. The essential area for a SCDSD data set is the area of the whole country (variant 1), whereas for a LSDP set the essential areas is the one indicated in SCDSD, for which there is an obligation to

draw up local plans (variant 2). The author acquired data on area indicated in SCDS for which there is an obligation to draw up local plans from Local Data Bank of the Polish Central Statistical Office (GUS). The studies show that with 95% probability the DISi 1.3 indices for the theme 'spatial development' fall in the range 2.31–56% in the variant 1, and in the range 4.14–15.18% in the variant 2 [Affek 2013].

Other guidelines on establishing infrastructure for spatial information (ISI) in Poland are specified by the programme of establishing infrastructure for spatial information (ISI) issued by the Surveyor General of Poland as of 2014–2015 [GUGiK 2014]. Among tasks to be implemented by the end of 2015 are works leading to amendment to the Spatial Planning and Development Act of 27 March 2003 [Dz. U. 2003 Nr 80, poz. 717]. The goal of the amendment is to adjust it to the directions of the Spatial Information Infrastructure Act of 4 March 2010 [Dz. U. 2010 Nr 76, poz. 489] as regards preparing planning documents in a digital form [GUGiK 2014].

2. Spatial planning – SWOT analysis

Spatial planning in Poland during last several dozen years has undergone numerous transformations aimed at adjusting planning processes to existing socioeconomic conditions [Litwin and Pluta 2015]. Some authors, such as Cieślak [2010], Izdebski et al. [2007], Ścibor [2007], Kwartnik-Pruc and Przewięźlikowska [2007], made the appraisal of the effectiveness of spatial planning in Poland, as regards solutions used in the European Union member states, showing strengths and weaknesses, as well as opportunities and threats of the spatial planning in Poland.

2.1. Strengths

Ścibor [2007] suggests that striving for sustainable development while maintaining spatial order and democratic processes can be regarded as strengths of the system. For Kwartnik-Pruc and Przewięźlikowska [2007] it is also advantageous that only one legal act is in force that regulates issues concerning spatial planning in Poland, which is in contrast to systems existing in western countries. The fact that property right is respected as to the possibilities of land development and management can be regarded as positive too.

2.2. Weaknesses

According to art. 47a of Spatial Planning and Development Act of 27 March 2003 [Dz. U. 2003 Nr 80, poz. 717] the competent minister in charge of regional development reviews and analyses the principles, method and conditions of institutions' functioning, procedures and instruments, and submits to the Council of Ministers the proposition of changes, while taking into account especially the concept of spatial development of the country. The Concept of Spatial Development of the Country [M.P. 2012, poz. 252], adopted by the Council of Ministers, indicates the main problems with regard to spatial

planning, including a scattered housing, high costs of building technical infrastructure, lack of social infrastructure in built-up areas, and conflicts between communities and local authorities, resulting from lack of approval for actions undertaken by the administration. Cieślak [2010] notes that spatial planning system is currently undergoing a crisis, and the amendment to the Act [Dz. U. 2003 Nr 80, poz. 717] is very well grounded. In contrast to solutions adopted in Great Britain or Germany spatial planning in Poland is not effectively connected to socioeconomic planning [Ścibor 2007] and investment planning [Izdebski et al. 2007]. At the level of communes the Act lists the instruments of spatial policy, such as: the study of conditions and directions of spatial development defining the spatial policy of a commune, a local spatial development plan defining the intended use of land and the way of its development, and also decision on zoning and land development conditions (ZLDC) issued when there is no local plan specifying that plots should meet the conditions defined by the Act. Izdebski et al. [2007] claim that over-wide powers to communes as to shaping the spatial policy are a weakness of the spatial planning in Poland. Ścibor [2007] argues that SCDS is obligatory in each commune, however it is not an act of local law and therefore its directions are not legally binding while taking decision on ZLDC. Moreover the decisions are taken by officials of the administration and are not consulted with councils of communes or local communities, which is practised in the English system with regard to planning permits [Izdebski et al. 2007]. According to the Act [Dz. U. 2003 Nr 80, poz. 717] drawing up LSDP is not obligatory, the number of existing local plans covers small area of the country, which especially applies to investment and tourist areas, suburban zones and areas along the transport corridors [Ścibor 2007]. Furthermore the alternative decision issued on ZLDC contributes negatively to unfavourable process of housing dispersion [Izdebski et al. 2007]. In comparison to spatial planning system functioning in Germany or Great Britain the Polish communes do not calculate the areas that are intended for residential housing in local plans in relation to the costs incurred by making these areas available to indispensable infrastructure [Izdebski et al. 2007]. Some authors, like Ścibor [2007] and Izdebski et al. [2007], also criticise the lack of uniform principles regarding preparation of a drawing to SCDS or LSDP. Small number of symbols defined in a regulation [Dz. U. 2003 Nr 164, poz. 1587] means that communes need to introduce their own symbols, which are not systematized on the national level. According to Izdebski et al. [2007] the drawings of plans are made for too large areas, which together with the scale of the study imposed by the Act, makes them illegible and they define the intended use of the area only generally, without giving any information on the zoning and land development conditions. Moreover, preparation of a few planning concepts, taking into account the effects of their implementation, is not practiced, and in contrast to German and English systems the Act does not require the addition of rationale for solutions adopted in a local plan, resulting from socioeconomic conditions [Izdebski et al. 2007]. Ścibor [2007] says that plans are not made with the use of available tools, such as GIS (Geographic Information System) and are not published in Internet, which make effective data exchange impossible, and the blocks access to information for local community.

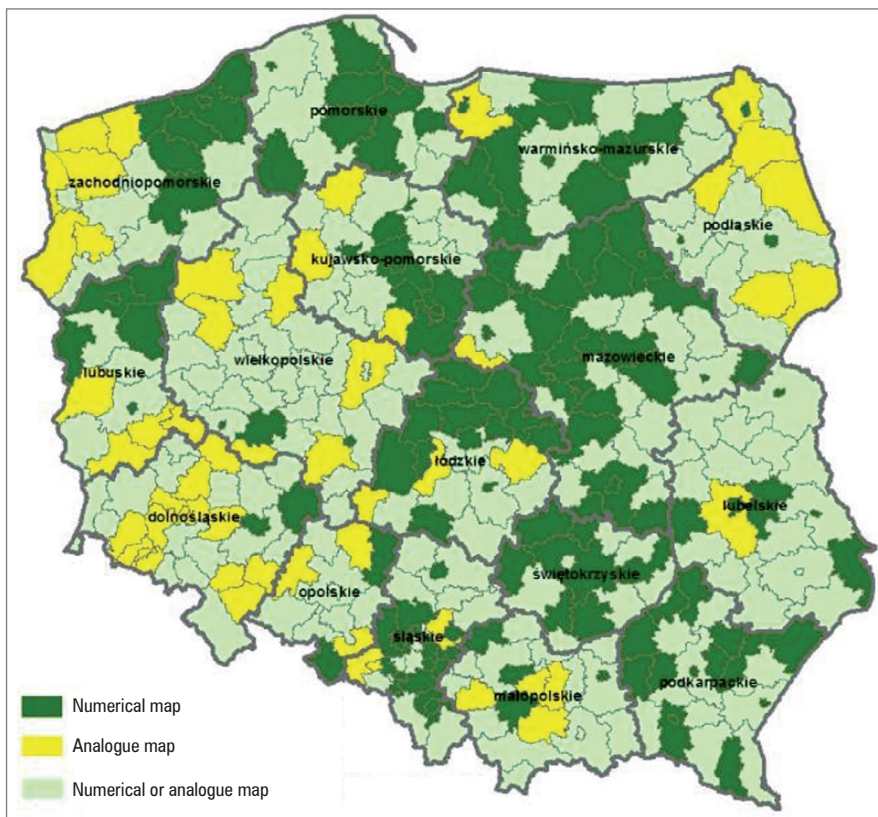
2.3. Opportunities

The amendment to the Spatial Planning and Development Act of 27 March 2003 is a chance for improvement of spatial planning system in Poland. The assumptions of the amendment are similar to solutions – regarded as effective by authors like Ścibor [2007], Izdebski et al. [2007] – adopted in western countries. The bill aims at strengthening connection between spatial planning and economic planning resulting from extensive analysis of needs and capacities of a given commune. Spatial planning process, according to the amendment, should be proceeded by defining relation between revenues and costs related to planning activities. Directing building investments to areas prepared for that purpose through equipping them with adequate technical and social infrastructure is also crucial to the bill. Establishing principles of effective management, such as limiting the number of decisions as to ZLDC will help to achieve the goal of a dense, low-emission city addressing the needs of pedestrians and cyclists. Proposed change in the procedure of adopting SCDS and LSDP, enabling an owner of a real property to build technical infrastructure at his own expense, and then giving it for free to commune to improve the investment process, is also a positive aspect of the amendment. Moreover it strives to increase the involvement of local communities in the process of spatial planning, through introduction of additional public consultations in the initial phase of planning works, so that residents could express their expectations about a given area. Formal framework will also be constructed to enable implementation of INSPIRE directive in a theme ‘spatial development’ [Projekt ustawy... 2015].

2.4. Threats

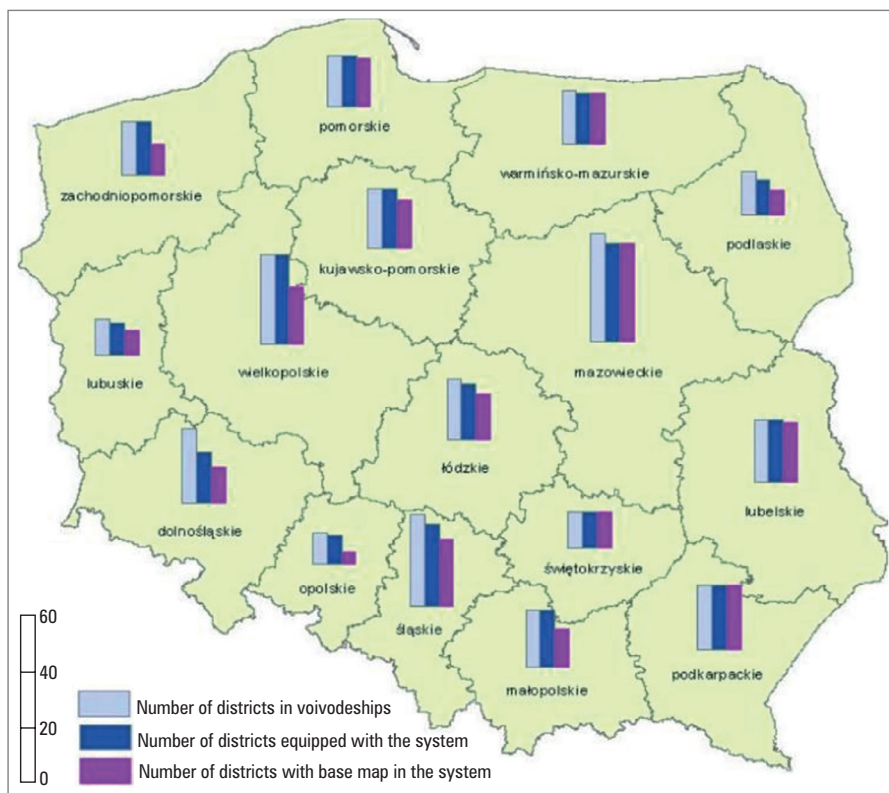
The threats regarding the improvement of spatial planning system in Poland are related to three main issues: actions of administrative bodies of local government units, legal state of real properties, and the level of digitalization of data stored in geodetic and cartographic administration resources. Bober et al. [2013] mention a few malfunctions of local governments’ operations, but in the context of effective spatial planning at a local level, one can list a bureaucratic malfunction, manifested in administrative inefficiency and dominance of office over citizen, financial malfunction and malfunction in absorbing EU funds. Limiting financial independence of a commune and a lack of uniform strategy of making investments with the use of EU funds will contribute to inappropriate stimulation of a commune development, also as regards land management [Bober et al. 2013]. One of the factors determining proper land management is a fixed legal status, especially with regard to property rights. Tazsakowski [2011] says that land registers (LR) contain subjective data concerning a real property, whereas in land and building registers (LBR) amass objective data acquired mainly from consolidation studies, regulative or complementary measurements. It is assumed that legal status revealed in LR is in conformity with the actual state disclosed in LBR, and in case of inconsistency, proceedings need to be initiated to determine and synchronize data in both kinds of documents. Bagnicki and Mika [2013] claim that inconsistency results from the fact that LR and LBR are managed

by two separate institutions, subordinated to different ministries and using different software tools, which contributes to creating local conflicts and obstacles to investments. The level of digitalization of documents collected by centres of geodetic and cartographic documentations, particularly regarding base map, is a threat to the functioning of spatial planning in Poland in the context of directives imposed by The Spatial Information Infrastructure Act of 4 March 2010. According to art. 16, point 1 [Dz. U. 2003 Nr 80, poz. 717], local plan should have a scale of 1 : 1000 and be prepared with help of copies of official base maps or, in case there are no such maps available, with the use of cadastral maps collected in a national geodetic and cartographic resource. As Bielecka and Izdebski [2014] state, in the light of new legal regulations, base map should have a numerical form, based on data from databases run by adequate administration. The report of Head Office of Geodesy and Cartography (GUGiK) issued in 2014 [Jarząbek 2014] demonstrates that Poland is covered by numerical map only in 58%. Karpackie voivodeship has a highest coverage (90.8%), Podlaskie voivodeship – the smallest one (14%). The level of coverage by a base map in a digital and analogue form in Poland is shown in Figure 1.



Source: [GUGiK 2014]

Fig. 1. Poland's coverage by a base map in its digital and analogue form



Source: [GUGiK 2014]

Fig. 2. Possession and usage of information systems in districts. The greatest number of districts possessing (and using) information system for keeping base map have been noted in the Mazowieckie voivodeship

3. Conclusions

The current spatial planning system in Poland shows more weaknesses than strengths and the existing Spatial Planning and Development Act of 27 March 2003 does not regulate effectively the issues regarding proper land management. The SWOT analysis shows numerous disadvantages of the system, including unfavourable process of housing dispersion, unbalanced public and private interests, no integration of spatial planning with socioeconomic planning, and also a problem of low citizen participation. Works initiated by the Polish government on the amendment to the Act, aimed at assimilating solutions adopted in western countries, are a chance for improvement of the current system. In the process of change of Polish spatial planning system, particular attention should be devoted to threats resulting from external factors related to malfunctioning of local government units, unregulated legal status of real properties, and available documents used in the process of spatial planning.

List of abbreviations

- INSPIRE – Infrastructure for Spatial Information in the European Community
 SCDS – Study of conditions and directions of spatial development
 LP – Local plan of spatial development
 GIS – Geographic Information System
 CAD – Computer Aided Design
 MOGC – Main Office of Geodesy and Cartography
 LBR – Land and building register
 LR – Land register
 ZLDC – Zoning and land development conditions

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