

# THE INFLUENCE OF JURIDICAL REGULATIONS UPON TOURIST TOWN- PLANNING

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## Abstract

Urban tourism, if correctly planned, developed and managed, may create advantages and benefits both to urban communities and overall society. By systematically implementing planning based on intelligent management and town-planning regulations complying with the organizing and long-lasting growth requirements of towns, local and national communities, benefits can be maximized, whereas troubles minimized. Town planning should pursue the juridical requirements of the legislation in force, based on a flexible, comprehensive, integrated and ecological approach, being implementable on the principles of keeping the tourist sector's long life

**Keywords:** town planning, town-planning law, town plans, tourist town planning.

## 1. Introduction

Modern **town planning**, as it is defined in specialized literature, provides the image of an art and science placed at inhabitants' disposal irrespective of the organization of places they live in (villages, towns or cities). It aims at stimulating the complex growth of locations according to their potential and inhabitants' expectations by accomplishing short-, medium- and long-term growth strategies.

Urban planning is an instrument of town management. In the past, when it turned from an operational instrument into a legal duty, it became useless. Planning, as it has always been, is undergoing changes towards what they believe to be a more efficient working way. What looks a trend of the last decades is its market orientation, more precisely demand orientation, so that it can promptly meet it.

Town planning always withdrew reacting to what they perceived as trouble during the previous system. The starting point was simply to understand the need for growth planning and the development issues have led to the wish for its legal support in order to counteract the private sector's powerful forces, thus growth statutory planning has come into being. After a while, the lack in flexibility and possibility to take rapid action was seen as a problem and they looked for new ways to render planning more flexible.

Statutory planning is a system set up and specified by means of the law. Physical and spatial planning means the planning of territory areas, the use and service endowment of fields and it is supported by statutory elements. In most countries, the system is specified and approved at central level. Although subject to criticism, it has a lot of strong elements that comprise: (Davidson, 1996):

- Protection of critical elements achieved by the law;
- prevention of on-the-spot decisions based on private interests;
- accurate regulations and directions that can be implemented by trained personnel.

Criticism regards the following aspects:

- Bureaucratic routine makes operating slow and rigid, and planning services are left solely in the administrative body;
- Lawfulness makes changes difficult to occur. That makes plans easily lose their upgrading, be often irrelevant, ignored and avoided.

The system is unefficient when administration is weak, when attitudes towards the law leave much to be desired and when corruption is something usual.

## 2. Juridical regulations regarding town planning

The field legislation in our country does not define either town planning or territory arrangement activities, but regarding them all it specifies their contents, typical features, objectives and their ways of accomplishment. Thus, Law no.350/2001 regarding territory improvement and town planning<sup>1</sup> provides in article 2 indentation 3 that "Territory spatial management is done by territory improvement and town planning that represent sets of general concern complex activities that contribute in balanced spatial development, natural and artificial patrimony protection, better living conditions in urban and rural areas as well as in ensuring territorial cohesion at regional, national and European level".

Juridical regulations regarding town planning start from the aspects regarding the property of fields. Once the urban boom has occurred, juridical regulations have undergone a massive improvement and diversification process originally aimed at town inside areas which has subsequently enlarged to the outside.

Historically speaking, regulations' development regarding town planning is strictly connected to the town planning rhythm. Public authorities have often interfered in order to cope with the complex issues that have occurred in town growth.

<sup>1</sup> Law no.350 of 6 July 2001 regarding town rehabilitation and planning was issued in Romania's Monitorul Oficial, part 1, no.373 of 10 July 2001. It was amended and improved by Government Order no.69/2004, Law no.289/2006, Government Order no. 18/2007, Law no.168/2007 and Government Order no.27/2008 issued in Monitorul Oficial no. 628 of 29 August 2008

It was not until mid 19<sup>th</sup> century that town planning and the juridical field intermingled only in terms of ideas related to the good arrangement of streets and buildings. The rare regulations that have occurred regarding town areas sometimes as true social constraints do not entitle town planning to govern the field of territory placement, town planning respectively.

The juridical regime of town planning has subsequently developed at two levels: on one hand, property right has been more and more strictly limited so that an individual owner has been compelled to surrender their properties to public interests. On the other hand, town planning regime has not only imposed certain restrictions, but its progress has also promoted certain guarantees to the administered ones. Significant development has been aimed at decisions' publicity related to town planning, consulting the administered ones by means of public inquiries, the battle against arbitrary circumstances etc.

Along with this regulating manner, public service activities have occurred that have made people assume the activities meant to improve urban areas, keep places clean and beautiful, and environment protection (Jacquot and Priet, 2001).

Town planning law has had various definitions in specialized literature, yet several common elements have been identified. Thus, Jacquot (1989) stated that town planning law ():

- can be defined as the set of rules and bodies set up to regulate area-related issues according to people's improvement objectives;
- is the set of rules regarding areas and their improvement;
- is analyzed as an element of economic law when a place is seen as richness or economic resource.

**Town planning law** is the juridical system's branch comprising the set of juridical regulations regarding urban areas' arrangement and improvement in compliance with the organization and long-lasting growth requirements of places, local and national communities (Dutu, 1998).

The features of town planning law ensue from the ratio it has with akin branches: building law, territory improvement law and environment law.

- **Building law** is the set of technical norms and rules regarding the volume and inside improvement of real estate and up to a certain extent it intermingles with town planning law which decides upon fields' degradation in terms of their localization, set-up, outside image etc.
- **Territory improvement law** aims at searching within national territory the best population distribution according to the natural resources and economic activities; therefore, *territory*

*improvement* has the objective to organize the national area, whereas town planning law has the purpose to deal with towns' improvement.

- **Environment law** comprises the set of juridical norms and related institutions aiming at environment protection, preservation and growth. Urban areas' organization and the various conflicts generated (noise, atmosphere pollution etc.) have been the core of environmental trends' occurrence and they are more visible in urban than in rural areas. Thus, town planning law has undergone an ample "environmentalization" process by developing the regulations related to environment protection and nature preservation. In this respect, accomplishing high quality urban environment requires along with the steps to prevent its degradation, more profound norms at general level meant to make town planning law subject to the new environment requirements. Nevertheless, environment law is much more comprehensive, including connections both to area-related issues and environment factors' preservation.

Most town planning rules are to be found in town planning documents and papers that provide the rule with a spatial form, which means a differentiation according to a respective area. According to article 44 of Law 350/2001, town planning documentation refers to urban and rural areas and regulates the use of fields and the conditions in which they can be covered with buildings.

They restate at urban and rural level the suggestions included in the improvement plans of national, area and county territories. Town planning documentation aims at specific regulations and sets rules directly applied to towns and parts of them up to the level of cadastral areas.

According to the directions of article 45 (Law no.350, 2001), town planning documentation includes:

- a) General town plan and the local regulation related to it;
- b) Area town plan and the local regulation related to it;
- c) Detailed town plan.

**General Town Plan (GTP)** – is the main instrument of operational planning and the legal basis to achieve development actions and programmes. GTP is accomplished according to the town development strategy and represents the documentation setting the development objectives, actions and steps of a current or future town, on a certain term, complying with the actual multicriterial analysis. The documentation is joined by the respective town's planning regulation. General town plan is the documentation according to which town-planning certificates and building authorizations are given within the respective town territory. Its contents refers to the delimitation of in-town areas, meaning those with buildings or meant to shelter buildings, the territory's division into functional zones and the organization of connections among them, the volume and structure of human potential within the town,

the classification of activities by branches and profiles, the set-up of regulations typical of the town, the identification of property of fields, the delimitation of protected areas and sites, the delimitation of places where buildings are forbidden, the development of technical networks, the rehabilitation, the environment protection and preservation, the identification and prevention of pollution sources, the cleaning of waters, the rejection of wastes.

**Area Town Plan (ATP)** – is the urban planning instrument that provides specific regulations coordinating the integrated development of certain areas in a town and they are very complex or have high urban planning dynamics. Area town plan provides the correlation of integrated town development programmes in an area with the General Town Plan. It is the documentation referring to an area within a current or future town, analyzes its actual situation and defines all the town planning elements necessary to supply town planning certificates and building authorizations.

The main objective of the Area Town Plan refers to : the set-up of an area's town-planning architecture, the set-up of buildings' arrangement and the suggestions regarding the use of fields, the organization of street networks, the solutions by technical endowment, the set-up of interventions allowed within restricted areas, the juridical status and transfer of fields.

**Detailed Town Plan (DTP)** – exclusively has the purpose of specific regulations ensuring the conditions to place, size and comply one or several sites in one or several adjacent areas in correlation with their neighbourhood. It represents the documentation stating the conditions to place and execute precise building in compliance with the provisions of other documentations and the particular conditions generated by the respective field.

As shown above, all town planning documentations comprise requirements related to material resources' valuation, the improvement conditions of environment quality, the division between building areas and protected ones.

Organizing urban areas and the negative consequences brought about by urban growth have generated along time the emergence of environmental trends which are more visible in towns than in villages.

In order to ensure healthy life environment, two main fields of promoting ecological principles must be taken into account:

- areas' social and economic growth;
- town planning and territory improvement.

Thus, public local authorities', businesses' and individuals' responsibilities refer to:

- *the improvement of urban micro-environment* by protecting and preserving springs and other water sources inside towns and within their neighbouring zones, bettering the landscape, keeping the streets clean;
- *the adequate placement of social and economic sites, and public utilities* (industrial plants, transport ways and means, drainage networks, cleaning units, household/street/industrial waste warehouses, the environment, relaxation places, treatment and entertainment areas);
- *the obedience of the special protection regime* in health spas, tourist and entertainment zones, historical monuments, protected areas and nature monuments. Therefore, it is forbidden to place sites or develop harmful activities within or too close to protected areas;
- *the adoption of proper architectural elements*, the improvement of the number of inhabitants in a certain area along with maintaining, preserving and developing natural spaces (green areas, parks, trees and bushes, environment-friendly landscape arrangement, recreation and beautiful views);
- *the rational management of traffic* by regulating the access of certain vehicle types or preventing uncomfortable activities that disturb the people in certain town areas, especially in dwelling, spa or relaxation zones;
- *compulsory rules* regarding the improvement and maintenance of yards and the areas around them, the green areas inside yards and among buildings, the cleaning of trees and bushes;
- *the local set-up of projects to rehabilitate* public toilets, and maintain and develop street networks;
- *people's training and attendance to such activities.*

The planning of tourist placement and improvement indicates the precise place of buildings and other structures and landscapes, supplying the following ideas (Stănculescu, 2004):

- *avoiding environment risks* that can have effects upon the local facilities or environment. The riskiest circumstances are:
  - landslides when it is about buildings on top of hills, on unsecure fields as well as those in low and moor lands;
  - occurrence of tides and coast erosion near beaches.
- *maintaining adequate urban relationships* among the buildings/groups of buildings in an area and recreation/scenery/preserved areas
- *maintaining visibility plans and directions* towards visually attractive sites. Visibility plans refer to attracting visibility higher than a certain height level and keeping clear views among buildings and other structures such as beaches, coast views or mountain sceneries.

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