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Land Management and Means of Planning Control

Centralized versus decentralized, and planning led versus market led approaches - a global European overview and the case of Denmark

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LAND ADMINISTRATION BETWEEN REGULATION AND FREEDOM
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Land Management and Means of Planning Control

Centralized versus decentralized, and planning led versus market led approaches - A global European overview and the case of Denmark

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SUMMARY

The paper presents an overall understanding of the Land Management Paradigm for Sustainable Development. It is argued that such an understanding is important for facilitating a holistic approach to the management of land, properties, and natural resources being the key assets of any nation or jurisdiction.

The paper then identifies the different means of planning control such as a centralized versus a decentralized approach and planning led versus a market marked led approach. This is presented in a European context through a short overview of the various planning systems that reflect the historical and cultural developments of the European countries.

Finally, the paper presents a short overview of the Danish approach to planning and land-use management as an example of a planning led approach placing the decision-making power especially at the local level. This concept of decentralization comprises a finely tuned relationship between a strong national authority and autonomous municipal councils. The purpose is to solve the tasks at the lowest possible level so as to combine responsibility for decision-making with accountability for financial, social, and environmental consequences. To put it shortly: “Planning is politics”.

THE LAND MANAGEMENT PARADIGM

Land management is the process by which the resources of land are put into good effect (UN-ECE 1996). Land management encompasses all activities associated with the management of land and natural resources that are required to achieve sustainable development. The concept of land includes properties and natural resources and thereby encompasses the total natural and build environment.

The organisational structures for land management differ widely between countries and regions throughout the world, and reflect local cultural and judicial settings. The institutional arrangements may change over time to better support the implementation of land policies and good governance. Within this country context, the land management activities may be described by three components: Land Policies, Land Information Infrastructures, and Land Administration Functions in support of Sustainable Development. This Land Management Paradigm is presented in Figure 1 below (Enemark et al., 2005):

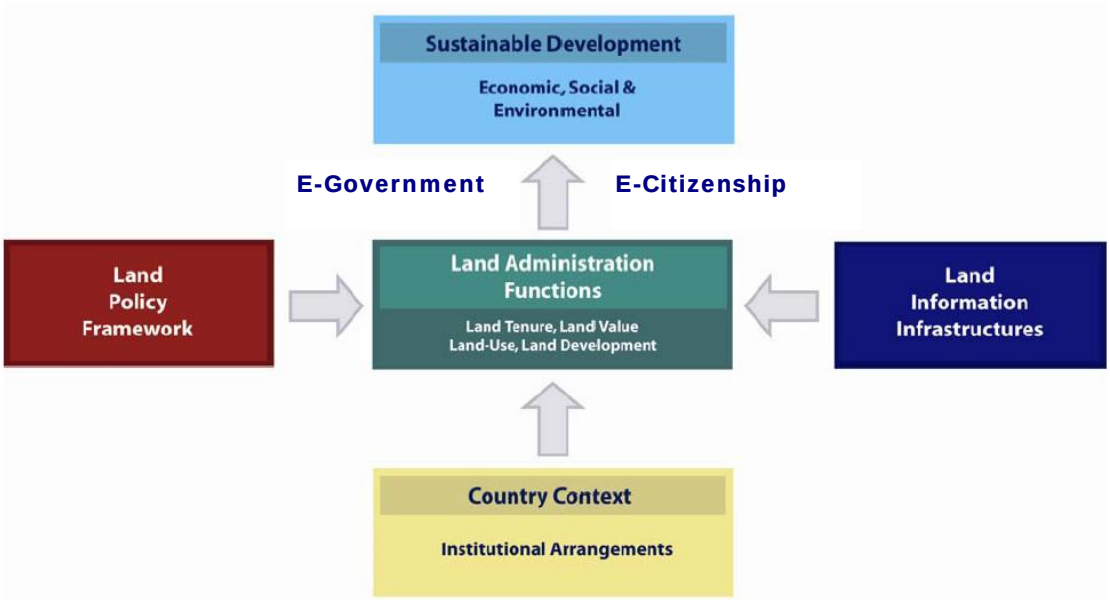

Figure 1. The land management paradigm

Land policy is part of the national policy on promoting objectives including economic development, social justice and equity, and political stability. Land policies may be associated with: security of tenure; land markets (particularly land transactions and access to credit); real property taxation; sustainable management and control of land use, natural resources and the environment; the provision of land for the poor, ethnic minorities and women; and measures to prevent land speculation and to manage land disputes.

The operational component of the land management paradigm is the range of land administration functions that ensure proper management of rights, restrictions, responsibilities and risks in relation to property, land and natural resources. These functions include the areas of land tenure (securing and transferring rights in land and natural resources); land value (valuation and taxation of land and properties); land use (planning and control of the use of land and natural resources); and land development (implementing utilities, infrastructure and construction planning).

Modern Land Administration Systems should facilitate sustainable development - the triple bottom line of economic, social and environmental sustainability - through public participation and informed and accountable government decision-making in relation to the built and natural environment. The land administration functions are based on and facilitated by appropriate land information infrastructures that include cadastral and topographic datasets and provide access to complete and up-to-date information of the built and natural environment. This is illustrated in the diagram below (Enemark, 2004).

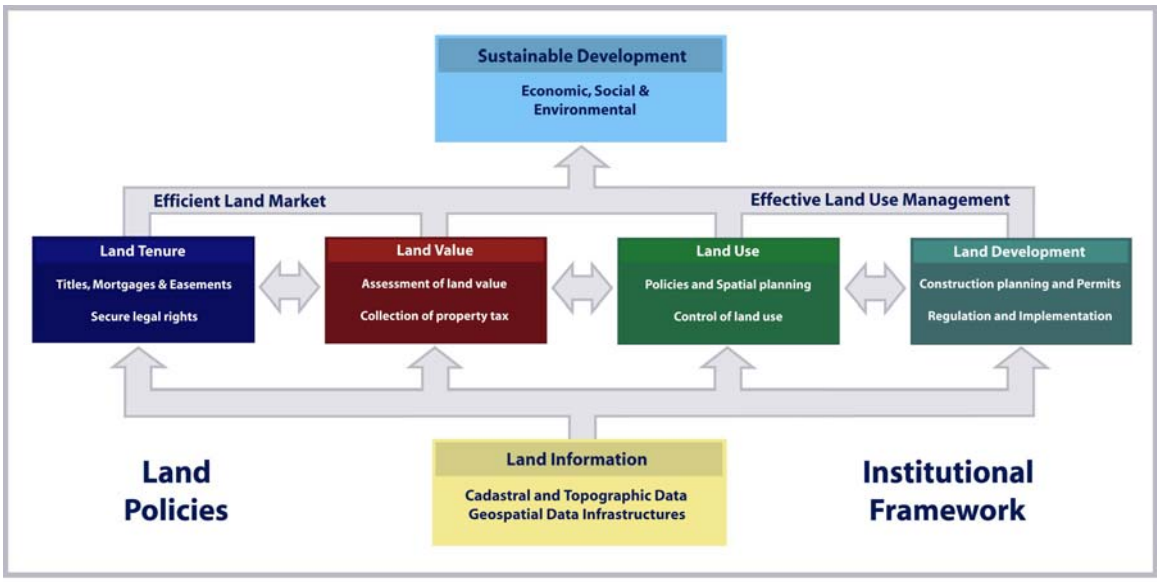

Figure 2. A global land management perspective.

A modern Land Administration System is concerned with providing detailed information at the individual land parcel level. It should service the needs of both the individual and the community at large. Benefits arise through its application in guaranteeing of ownership, security of tenure and credit; facilitating efficient land transfers and land markets; supporting management of assets; and providing basic information in processes of physical planning, land development and environmental control. The system, this way, acts as a backbone for society.

Sound land management is the operational processes of implementing land policies in comprehensive and sustainable ways. In many countries, however, there is a tendency to separate land tenure rights from land use rights. There is then no effective institutional mechanism for linking planning and land use controls with land values and the operation of the land market. These problems are often compounded by poor administrative and management procedures that fail to deliver required services. Investment in new technology will only go a small way towards solving a much deeper problem; the failure to treat land and its resources as a coherent whole.

MEANS OF PLANNING CONTROL

The means of planning control are examined below in the context of Europe and with a special focus on issues such as centralisation versus decentralisation and planning led versus market led approaches.

Diversity of planning systems in Europe

There is no such thing as the common planning system for the European countries. Planning systems varies considerably in terms of scope, maturity and completeness, and the distance between expressed objectives and outcomes. The systems also varies in terms of the locus of power (centralisation versus decentralisation), and the relative role of the public and private sector (planning led versus market led approach) which is the main focus addressed in this paper.

More generally, planning systems are to some extent determined by the cultural and administrative development of the country or jurisdiction – just like is the case for cadastral systems. With regard to the planning systems there are some merits in having a look at the cultural map of the world as offered by the Dutch sociologist Geert Hofstede (2001):

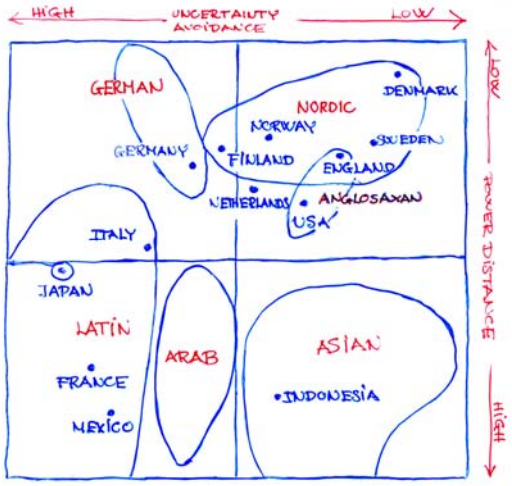

Figure 3. The cultural map of the world

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Geert Hofstede divides the world's cultures into four squares using the two axes of:

Uncertainty avoidance:
The need for preference of structured situations over unstructured or flexible ones.

Power distance:
The degree of inequality among people accepted by the population.

The point is that the axes (cultural approaches) of uncertainty avoidance and power distance are both fundamental for determining to the design of planning systems in any country or jurisdiction. Planning systems therefore varies according their cultural base. This explains why for example the systems in Denmark and France are quite different.

Four major traditions of spatial planning can be identified within the European countries (European Commission, 1997):

- *The regional economic planning approach*, where spatial planning is used as a policy tool to pursue wide social and economic objectives, especially in relation to disparities in wealth, employment and social conditions between different regions of the country. Central government inevitably plays a strong role. France is normally seen as associated with this approach.
- *The comprehensive integrated approach*, where spatial planning is conducted through a systematic and formal hierarchy of plans. These are organised in a system of framework control, where plans at lower levels must not contradict planning decisions at higher levels. Denmark and the Netherlands are associated with this approach. In the Nordic countries local authorities play a dominant role, while in federal systems such a Germany the regional government also play a very important role.
- *The land use management approach*, where planning is a more technical discipline in relation to the control of chance of use of land. The UK tradition of "town and country planning" is the main example of this tradition, where regulation is aiming to ensure that the development and growth are sustainable.
- *The urbanism approach*, where the key focus is on the architectural flavour and urban design. This tradition is significant in the Mediterranean countries and is exercised through rather rigid zoning and codes and through a wide range of laws and regulations.

Another classification can be made in relation to how the systems operate. Two characteristics can be identified in this regard: the extent of discretion or flexibility in decision making to allow for development that is not in line with the adopted planning regulations; and the degree of unauthorised development that means as to whether there is a close, moderate or distant relation between the stated objectives and the actual development. By drawing these two categories together, the European countries can be classified as follows (European Commission 1997):

- The UK has a discretionary system and yet there tends to be a close relationship between objectives of the system and the actual development.
- Denmark, Finland, Ireland, and the Netherlands have a moderate degree of flexibility in decision making, and planning objectives and policies are close to development that takes place.
- France, Germany, Luxemburg and Sweden all have systems which have little flexibility in operation, and where development is generally in conformity with the planning regulations.
- Belgium and Spain both have rather committed systems while there is only moderate relationship between objectives and reality.

- Finally there is group of countries, Greece, Italy and Portugal, where the systems are based upon the principle of committed decisions in plans, but where in practice there has been considerable discrepancy between the planning objectives and reality.

It must be mentioned, that classifications such as presented above can only be seen as a very general overview, while, in the details, there may be all kind of nuances that reflect the specific conditions and cultural tradition of the individual country.

Centralisation versus decentralisation

Most European countries have experienced a measure of decentralisation to the most local municipal level. This, however, varies according to the distinction between administrative decentralisation to local arms of central government or to responsible locally elected councils. It also varies according to the extent to which central government retains a determining influence through supervisory and/or reserve power (European Commission, 1997).

The principle of subsidiarity is well known in the economic literature and has been formally adopted by the European Commission. Such decentralised provision, it is argued, will produce not only more efficient service through making better use of local knowledge, but it will also lead to greater participation and democracy, increased popular consent to government, and hence improved political stability. It should also produce increased resource mobilisation and reduced strain on central finances, greater accountability, and more responsive and responsible government in general. Therefore, it is not surprising that many countries have seen decentralisation in and of itself to be intrinsically valuable.

Another argument is that whatever outcome may emerge from a decentralised system of decision-making it must be assumed to be the right decisions in relation to local needs. Decentralisation thus institutionalises the participation of those affected by the local decisions. This argument is particularly valid in the area of land-use decision-making and administration. Land-use planning this way becomes an integrated part of local politics within the framework of plans and policies provided at regional and national level.

The EU Compendium of Spatial Planning Systems and Policies (1997) identified the range of authorities within the European Countries responsible for framework and regulatory instruments. In almost all member Stares (1997) the local authorities have the major responsibility for the detailed management of land use change and building control, under the general supervision of the national or regional government.

Given the variation in administrative structures there is some consistency among the European countries in the use of spatial planning policy instruments at the local level as a basis for regulating land use and building/development. In all countries legislation provides for a tier of planning instruments at the local government level that is intended to be the principal tool for managing the land use (European Commission, 1997).

Member State	Type of local authority	Number	Average population
France (Metropole)	*Communes*	36,558	1,550
Luxembourg	*Communes*	118	3,300
Österreich	*Gemeinden*	2,300	3,000
España	*Municipalities*	8,077	4,800
Deutschland	*Gemeinden*	16,040	5,000
Italia	*Comuni*	8,102	7,000
Suomi-Finland	*Kunnat/Kommuner*	454	11,000
Belgique-België	*Gemeente/Communes*	589	17,000
Danmark	*Municipalities*	275	20,000
Nederland	*Gemeentes*	647	23,000
Sverige	*Kommuner*	288	30,000
Portugal	*Câmaras*	305	34,000
Ireland-Éire (2)	*Districts*	88	40,000
United Kingdom	*Districts*	483	119,000
Ellas (3)	*Prefecture*	54	190,000

(1) Where there is more than one level of local authority (for example the UK) the table refers to the level with primary responsibility for local level instruments. The average gives an indication only of the size of units responsible.
(2) There is a significant range in Ireland with 49 urban planning areas having an average population of only 9,100.
(3) Local government in Greece has very limited planning powers. The *prefecture* is the lowest tier to which plan making powers are decentralised although in exceptional cases some powers have been delegated to municipalities.

Figure 4. Local level authorities in the European Union Member States (1997).

Planning led versus marked led approaches

The relative roles of the public and the private sector refer to the extent to which the realisation of spatial planning policy is reliant on public or private sources and the extent to which development might be characterised as predominantly plan-led or market-led.

The Danish system, for instance, is mainly plan-led with development possibilities being determined in the general planning regulations at regional and local level, and further detailed in the legally binding local/neighbourhood plans. However, planning regulations established by the planning system are mainly restrictive. The system may ensure that undesirable development does not occur, but the system will not be able to ensure that desirable development actually happens at the right place and at the right time, as the planning intentions are mainly realised through private developments.

When there is a development proposal which is not in line with the plan, either a minor departure from the plan may be allowed, or the plan itself has to be changed prior to implementation. This process includes public participation, and the development opportunities are finally determined by the municipal council. On the other hand, development proposals that conform to the adopted planning regulations are easily implemented without any time delay. These legal means of planning control are shown in the diagram below:

Planning Regulations \ Political decision	Desirable	Undesirable
Conforming with planning regulation	Permission May be subject to a local plan	Prohibition
Not conforming with planning regulations	Adjustment	Refusal

Figure 5. The legal means of planning control in Denmark (Enemark 1999)

In more market led systems such as in the UK the local development plans are prepared to for reconciling conflicts between the need for development and the need to protect the natural and built environment. Such local development plans are not legally binding but should provide a firm basis for rational and consistent decisions and must reflect national and regional policy. Departures may be permitted if they can be justified by local circumstances. All development such as construction works and change of land use requires advance consent from the local authority, known as planning permission.

A characteristic of the market led system is the discretion which is allowed to decision makers to consider any relevant matters when making decisions on development proposals coming forward for consideration. The development plan is then seen as only one consideration among many in this regard. The system, this way, is more open to the market forces, even if the development proposal does not conform to development plan.

Furthermore, there are rights to appeal to central government where permission to develop is refused. Moore than 26 000 appeals are made each year in the UK. About one third of these are successful in overturning the original decision by the local planning authority. In the Danish system, in contrast, the regional, municipal and local plans have to be submitted for public debate and for public inspections and objections before final adoption by the municipal authority. On the other hand, there is no opportunity for an appeal or inquiry of the contents of an adopted plan, even the binding local plans. The adoption of a plan is conclusively determined respectively by the county and the municipal councils and there is no compensation to land owners for any development limitations thereby incurred.

In many European countries it is normal practice for the public sector to take a leading role in the implementation process, particularly for large, complex or urban projects. In a market led system such as the UK (and Greece and Spain to some extent) there is a much lower level of direct public sector involvement in the implementation of new development, but rather public sector planning is undertaken primarily to promote and regulate the actions of private investors.

Any planning policy or strategy will have to consider a number of contradicting professional and political attitudes to development control such as a social versus a liberal approach, and growth versus a balanced approach. In planning terms this refers to approaches such as regulation versus deregulation, and centralization versus decentralization. This shows that planning is politics. However, to be robust comprehensive planning must be based on all four approaches and methods of planning in order to appear as legitimate. This will include a balance between the functional regulations of the professional planner; the demand for control and economic growth of the politicians; the wishes for free market investments coming from the developer; and the often more grass-root based demands articulated by the citizens. The general trends in Europe in this regard are shown in the diagram below.

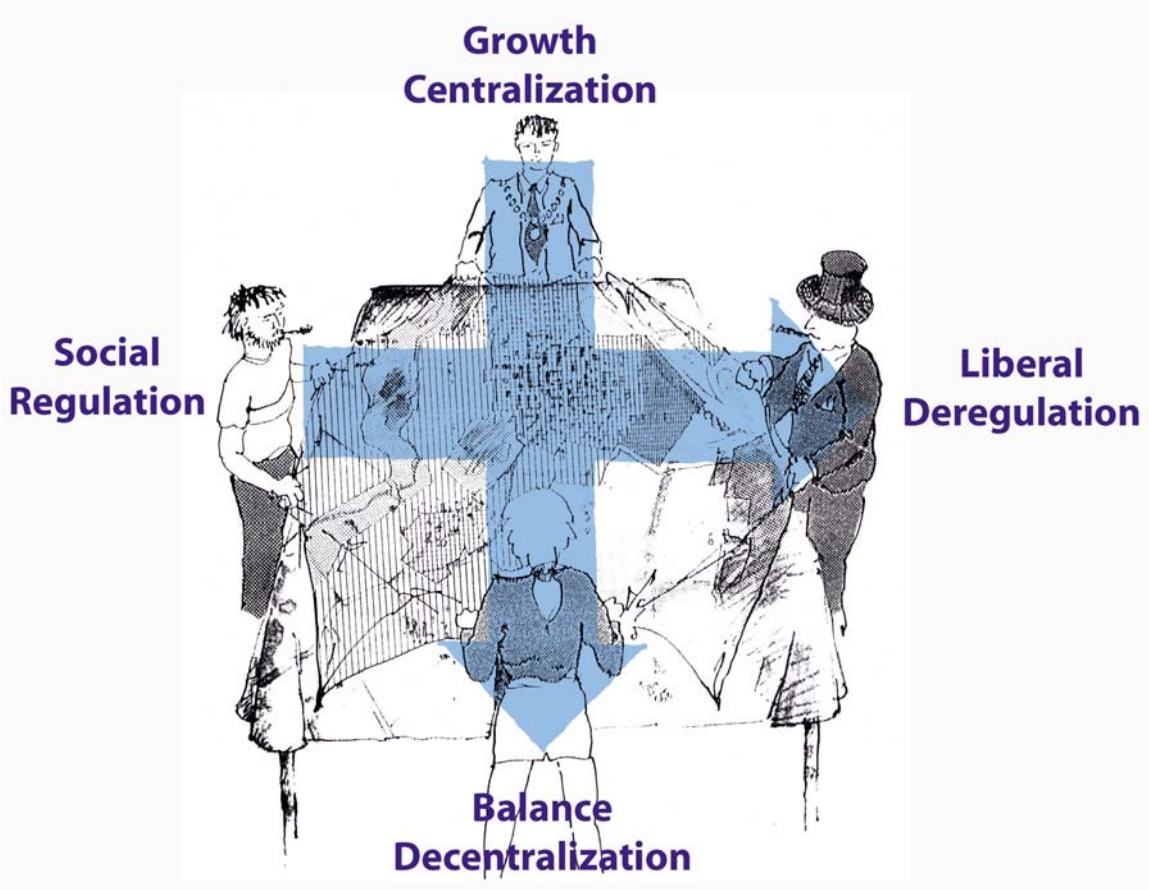

Figure 6. The general trends in Europe in terms of the political attitudes and planning approaches.

THE CASE OF DENMARK – A decentralised and planning led approach

Denmark is a part of Scandinavia and a member of the European Union. The total area is 3,000 square kilometres, not including the Faeroe Islands and Greenland. The population covers around 5, 3 million people with a density of 123 persons per square kilometre. About 85% of Denmark's population lives in the cities and towns and one third of the population lives in the Copenhagen Capital area. Denmark is low-lying country, its highest point rising 175 metres above the sea.- Approximately 10% of the country is used for urban zones and transport installations, 67% is agricultural land, 12% is forests, and the rest is semi-natural areas such as hearths, lakes and streams. The total coastline stretches 7,300 kilometres.

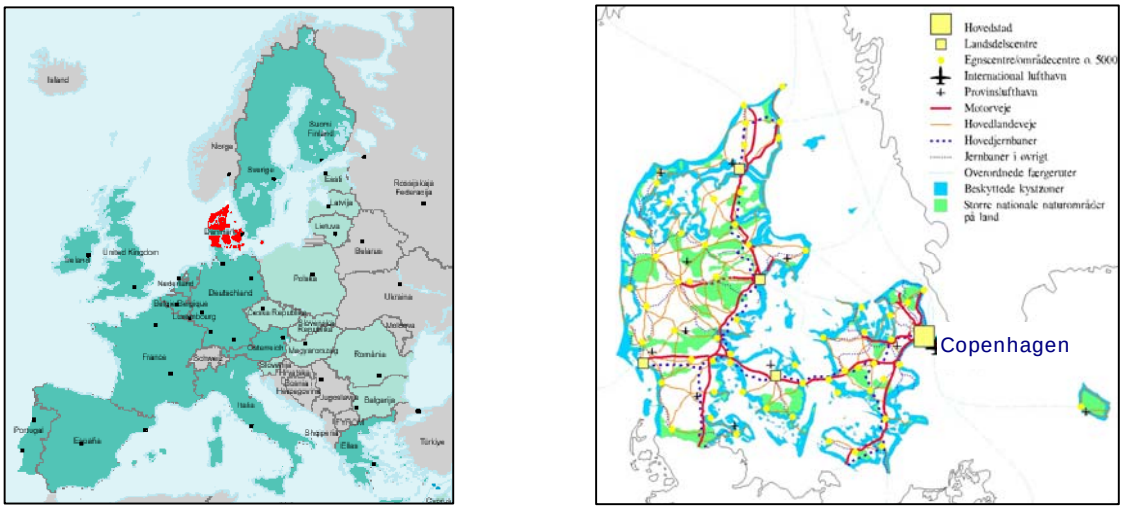

Figure 7. The country of Denmark

Denmark is a constitutional monarchy governed by a representative democracy organized on three levels: at the national level there is a parliament with legislative power and ministries responsible for certain fields; at the regional level there are 14 county councils responsible for regional matters such as hospitals, upper secondary schools, major roads, rural planning and administration; at the local level there are 275 municipal councils responsible for all local public functions. On average a municipality has around 20,000 inhabitants. However, as per 1 January 2007 a new administrative structure will be in force consisting of only 5 counties and about 100 municipalities.

The Danish System of Planning Control

The system of planning control is based on the principle of framework control in which plans must not contradict the planning decisions at higher levels. This is shown in the diagram below:

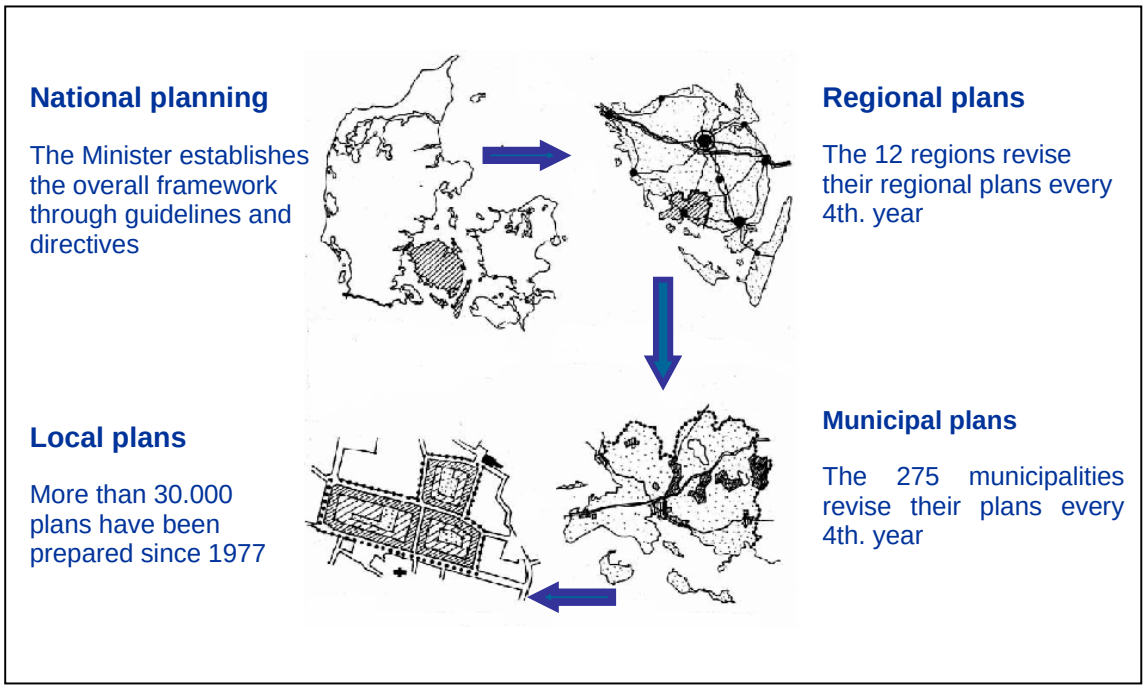

Figure 8. The Danish system of planning control.

The Ministry of the Environment establishes the overall framework in terms of policies, guidelines and directives. The county councils carry out regional planning with emphasis on the regional infrastructure and the sectoral interests of the countryside. The municipal councils are responsible for municipal planning with emphasis on the local issues and the function and development of the urban areas. The municipal councils are also responsible for the legally binding detailed planning of their neighbourhood areas (local plans), and for the granting of building permits that serve as a final control in the system. The Minister for the Environment can influence the planning at regional and local levels through policies and national planning directives.

Regional, municipal and local plans have to be submitted for public debate and for public inspections and objections before final adoption. This provides for public participation in the planning process at all levels. On the other hand, there is no opportunity for an appeal or inquiry of the contents of an adopted plan, even the binding local plans. The adoption of a plan is conclusively determined respectively by the county and the municipal councils and there is no compensation to land owners for any development limitations thereby incurred. The procedures of public participation mentioned above are regarded as adequate for the legitimacy of the political decision.

The principle of framework control ensures that planning decisions at regional and local level - in principle - will be in conformity with overall national policies. National planning policies, however, are not formally linked together to form a general national plan or a "blue print". A

National Spatial Development Perspective such as "Denmark towards the Year 2018" (launched 1993) is not a plan, but a vision, serving the purpose as a reference framework.

As mentioned above, the Danish administrative structure will change as per 1 January 2007. The regional level will be organised into 5 counties with a main responsibility for the hospitals, whilst the planning responsibilities will be transferred to the national and especially the local level. At this local level the 275 municipalities will be merged into about 100 with a minimum size of 30,000 inhabitants, and with the key planning responsibilities in terms of the comprehensive municipal plans and the legally binding local plans.

A decentralised approach placing the decision-making power at local level

In the Nordic setting, and many other places around the world, the obvious local arena for land-use planning and decision-making has been the commune - the municipality. The concept of decentralisation has developed through the 1900´s. A breakthrough, as described above in the case of Denmark, was achieved in the early 1970´s by implementing the reform of local governance. The objective of this reform was to establish local authorities being sustainable in a political and economical sense and being able to manage an increasing number of tasks transferred from the national to the local level.

This movement of decentralisation was based on democratic ideals or conceptions such as to establish a local representative democracy comprising a decentralised comprehensive approach to local self-government and a local modernised unitary administration. These ideals developed in society through the second half of the 1900´s and they are still developing. Today, the conceptions regarding local self-government are directed more towards expectations of prosperity and performance of balanced control towards sustainable development in a local as well as global sense. For example, it is politically understood that environmental problems can only be solved by involving/mobilising the local people.

In Denmark, the impact of central versus local government in support of sustainable development is a mix of vertical connections where each sectoral policy is implemented by a top- down approach; and horizontal connections where the different sectoral policy areas are balanced on the same level through comprehensive spatial planning. The means to make this system work are monitoring, dialogue and the national power of vetoing a proposal for a regional structure plan or a local/neighbourhood plan. The means of veto is replacing national adoption of the plans.

To facilitate the planning process and to avoid the use of veto, a comprehensive national report is prepared prior to every four-year revision of the regional plans. The report presents the current preconditions for managing the national aims and objectives within specific and topical policy areas. Through this report, national interest are considered, discussed and dealt with prior to the process of revising the plans every four years. A national veto can also be imposed against a local/neighbourhood plan when national

interests are at stake. The means of monitoring, dialogue and veto, work this way to achieve a sustainable balance between the three levels of administration.

In Denmark, the decentralised model of land use control is based on a cultural tradition which strives for a broad political and social consensus. The concept of decentralisation comprises a precise and finely tuned relationship between a strong national authority and autonomous county and municipal councils. The purpose is to solve the tasks at the lowest possible level so as to combine responsibility for decision making with accountability for financial and environmental consequences. To put it simply: “planning is politics”.

A planning led approach through integrated land-use management

An integrated system of Land-Use Management for Sustainable Development is shown in the diagram below:

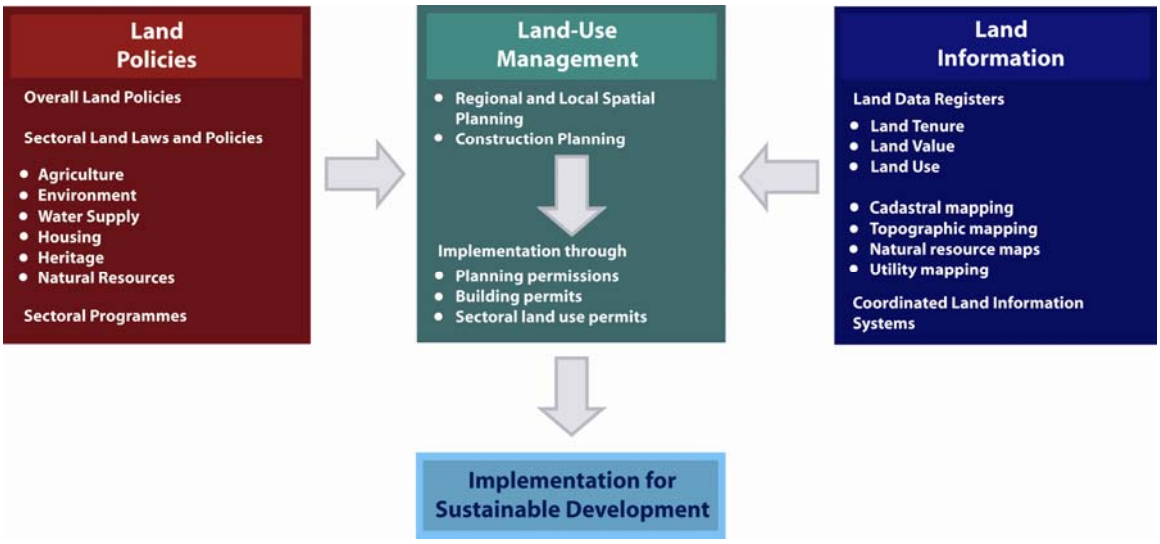

Figure 9. Integrated land-use management for sustainable development (Enemark, 2004).

Integrated land-use management is based on land policies laid down in the overall land policy laws such as the Cadastral/Land Registration Act; and The Planning/Building Act. These laws identify the institutional principles and procedures for the areas of land and property registration, land-use panning, and land development. More specific land policies are laid down in the sectoral land laws within areas such as Agriculture, Forestry, Housing, Natural Resources, Environmental Protection, Water supply, Heritage, etc. These laws identify the objectives within the various areas and the institutional arrangements to achieve these objectives through permit procedures etc. The various areas produce sectoral programmes that include the collection of relevant information for decision making within

each area. These programmes feed into the comprehensive spatial planning carried out at national/state, regional and local level.

Furthermore, the system of comprehensive planning control is based on appropriate and updated Land Use Data Systems, such as the Cadastral Register, the Land Book, the Property Valuation Register, the Building and Dwelling Register, etc. These registers are organized to form a network of integrated subsystems connected to the cadastral and topographic maps to form a spatial information infrastructure on the natural and built environment.

In the Land-Use Management System (the Planning Control System) the various sectoral interests are balanced against the overall development objectives for a given location and thereby form the basis for regulation of future land-use through planning permissions, building permits and sectoral land use permits according to the various land-use laws. These decisions are based on the relevant land use data and thereby reflect the spatial consequences for the land as well as the people. In principle it can then be ensured that implementation will happen in support of sustainable development.

FINAL REMARKS

This paper does not attempt to present an overall global approach planning systems and policies in Europe or a comparative analysis of the maturity or completeness of systems. In fact, the systems can hardly be compared since the cultural and institutional conditions vary throughout the regions of the European territory – even the terminology and the meaning of spatial planning vary a lot.

Instead, this paper attempt to identify some general characteristics and some key issues are discussed in more details such as centralised versus a decentralised approach and plan led versus a market led approach. This finally leads to a conclusion around the some current trends within the European countries.

Finally this paper presents the Danish system as an example of a decentralised and plan led approach to spatial planning based on a finely tuned relationship between the national, regional and levels. The purpose is to solve the tasks at the lowest possible level so as to combine responsibility for decision making with accountability for financial and environmental consequences. To put it simply: “planning is politics”.

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BIOGRAPHICAL NOTES

Stig Enemark is Professor in Land Management and Problem Based Learning at Aalborg University, Denmark, where he was Head of the School of Surveying and Planning 1991-2005. He is Master of Science in Surveying, Planning and Land Management and he obtained his license for cadastral surveying in 1970. He worked for ten years as a consultant surveyor in private practice. He is currently the President of the Danish Association of Chartered Surveyors and he is Vice-President of the International Federation of Surveyors (FIG) 2005-2008. He was Chairman of FIG Commission 2 (Professional Education) 1994-98, and he is an Honorary Member of FIG. He was acting as the Danish delegate to the Council of Geodetic Surveyors (CLGE) 1997-2006. His teaching and research are concerned with land administration systems, land management and spatial planning, and related educational and capacity building activities. Another research area is within Problem Based Learning and the interaction between education, research and professional practice. He has undertaken consultancies for the World Bank and the European Union especially in Eastern Europe, Latin America, and Sub Saharan Africa. He has around 250 publications to his credit, and he has presented invited papers to more than 60 international conferences. For further information see http://www.land.aau.dk/~enemark

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