

SHORT COMPARATIVIST APPROACHES REGARDING THE GENESIS AND EVOLUTION OF THE URBANIAM IN POLAND AND FRANCE

PhDc, Sonia Andreea STOICA¹

ABSTRACT

In this paper we try to make a short comparative study of the genesis and evolution of the urbanism in France and Poland. As it is known, both of them are member of the European Union, but Poland has passes through a dictatorial and centralized political and economic system that marked its evolution.

Keywords: urbanism, European bodies, codes, laws, Poland, France.

1. Introduction

After the emergence of the European Communities, the founding treaties of Paris and Rome, with the consolidation and deepening of integration, for European urbanism began a continuous activity to promote principles that define a common urban strategy and policies at continental level².

This period is marked by decisive events by creating structures that have influenced the evolution of European urbanism. Thus, the Council of Europe, an organization set up in 1949, was established by signing the Treaty of London, the European Communities and the European Council of Urbanists, a successor to an organization established in 1979 under ISOCARP³, the „Liaison Committee for Urban Planners in the CEE” European Economic Community)⁴.

By resolutions 525 and 526/1968, the Parliamentary Assembly proposes to the Committee of Ministers of the Council of Europe to engage in a new form of European cooperation in the field of spatial planning and to establish for it a permanent ministerial conference in charge of developing new policy orientations

¹ e-mail: stoica.sonia@yahoo.com

² *Apud* Gabriel Pascariu, „Urbanism românesc în context european. Patru decenii de cronologii paralele”, *Revista Urbanismul*, nr. 7/2010-8/2011, p. 122, https://www.researchgate.net/publication/300198546_Urbanism_romanesc_in_context_european_Patru_decenii_de_cronologii_paralele, accesat 18.08.2017.

³ International Society of City and Regional Planners.

⁴ *Apud* Gabriel Pascariu, „Urbanism românesc în context european. Patru decenii de cronologii paralele”, p.122.

for territorial development European continent and ensure the harmonization of national policies in the area of spatial planning)⁵.

And to come to the fore, the European Urbanism Charter was adopted by the General Assembly of the European Council of Urban Planners in Barcelona on April 12, 2013 "Vision for the Cities and Regions of Europe in the 21st Century"⁶.

2. Urban planning and landscaping in European states

The essential characteristic of the EU Member States is that they are all democratic states that share the same principles and a system of values based on respect for the rule of law, human rights and legal requirements.

The characteristics of the population structure indicate the possible meaning of the evolution of a locality, these being used in drawing up town planning plans of localities. Analyzed at a certain time, one can predict the type of development of the locality and its degree of attractiveness⁷. Oscar Lewis argues that urbanization is not a singular, unitary and universal process but a process that manifests itself in various forms and meanings given by historical, social, economic and cultural conditions⁸.

Urban planning and spatial planning are projects of general interest⁹, of public utility character, and are fundamentally aimed at satisfying the public interest. The vast majority of the world's population lives in urban areas, and there is also the main economic activity of a country that essentially influences urbanism and landscaping policies. Population density is a very important planning factor as it affects land use, urban management, infrastructure and people transit.

The vast majority of the world's population lives in urban areas, and there is also the main economic activity of a country that essentially influences urbanism and landscaping policies. Population density is a very important planning factor as it affects land use, urban management, infrastructure and people transit.

With regard to the research carried out, we studied France, a semi-presidential republic and founding member of the EU, and Poland, a former totalitarian state, which joined the EU in 2004 in the first wave of the former communist states¹⁰.

⁵ <http://www.mdrap.ro/dezvoltare-teritoriala/amenajarea-teritoriului/amenajarea-teritoriului-in-context-european>, accesat 18.08. 2017. Reuniunile CEMAT până astăzi, se găsesc prezentate, *in extenso*, pe site-ul www.coe.int

⁶ The Charter of European Urbanism, art.7, disponibilă la www.rur.ro/download/1485, accesat 18.08. 2017.

⁷ Elena Maria Minea, *Urbanism și amenajarea teritoriului*, Suport de curs, Cluj Napoca, 2014, p. 36.

⁸ Lewis, O., 1973, Some perspectives on urbanization with special reference to Mexico City. In A. Southall, editor, *Urban Anthropology: Cross-Cultural Studies of Urbanization*. New York, NY: Oxford University Press, 125-138, p. 129.

⁹ J. Morand Devillier, *Droit de l'urbanisme*, Ed. Estem, Paris., p. 49, http://www.bibliotheque.auf.org/doc_num.php?explnum_id=71, pdf. Accesat 16.08.2017.

¹⁰Datele prezentate în această secțiune sunt de pe site-ul http://europa.eu/lisbon_treaty/countries și din Enciclopedia Uniunii Europene, Editura Meronia, București, 2006.

3. The Republic of Poland - reference elements and the legal framework in the field

In April 1994, Poland submitted its application for EU membership, and negotiations began in 1998. In February 2003, 70% of the country's population voted for membership.

Poland is the first of the countries in Eastern Central Europe that has acquired regional autonomy in line with the European Union's policies, thus having an advantage compared to the rest of the post-communist countries¹¹.

The first years of transformation were characterized by the increase in regional discrepancies, the market competition revealing strong regional centers and exposing other very poor regions¹². Poland has a population of 38.6 million and a territory of 312.700 km², being the largest country in Central and Eastern Europe with three levels of government: central, regional and local¹³.

The Republic of Poland is a unitary state and a constitutional republic with a mix of presidential and parliamentary models. The governance system is based on the separation and balancing of legislative, executive and judicial powers. Based on administrative reform in 1998, the country is divided into 16 provinces („województwa”), which are the main administrative units. Provinces are divided into „poviats”. The basic unit of local self-government is common (the „gmina”)¹⁴.

The legislative authority is exercised by the Sejm, the Senate, and to a certain extent by the Constitutional Court, the executive authority is represented by the president, the prime minister and the Council of Ministers, and the judicial authority by the general administrative and military courts.¹⁵

The legal framework must not be underestimated when it comes to modeling cities and settlements. Architectural design and urban planning have an important role that includes both the ability to interpret existing rules and the potential to create new rules¹⁶.

The Republic of Poland must protect the independence and integrity of its territory and ensure the freedoms and rights of individuals and citizens, the security of citizens, protect national heritage and ensure the protection of the natural environment in accordance with the principles of sustainable development¹⁷.

¹¹ Ludek Sykora, Local and regional planning and policy in East Central European transitional countries, in Martin Hampl et al: *Geography of societal transformation in the Czech Republic*, p. 169.

¹² Regional_policy_and_planning_in_Europe.pdf , p. 184.

¹³ Regional_policy_and_planning_in_Europe.pdf , p. 185.

¹⁴ <http://www.legislationline.org/countries/country/10>, accesat 10.08.2017.

¹⁵ <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023221.pdf>, accesat 11.08.2017.

¹⁶ <https://urbani.pl/prawo-i-przepisy/> accesat 31.07.2017.

¹⁷ Articolul 5 din Constituția Republicii Poloneze din 2 aprilie 1997, amendată prin Journal of Laws 2001, No. 28, item 319, 26.03.2001, Journal of Laws 2006, No. 200, item 1471, 07.11.2006, Journal of Laws 2009, No. 114, item 946, 21.10.2009.

The main laws on urban planning and spatial planning in Poland are as follows:

The Construction Law of July 7, 1994 regulates the activity consisting in the design, construction, maintenance and demolition of building objects and regulates the rules of activity of the public administration authorities in these areas.¹⁸

The Building Law implements the provisions of the following European Union directives:

1) Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites;

2) Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13);

3) Directive 2009/28/EU of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and the subsequent amendment and repeal of Directives 2001/77/EC and 2003/30/EC OJ L 140, 5.6.2009, p. 16, as amended¹⁹.

The Territorial Planning and Development Act of 27 March 2003 ;

Taking into account Article 2, paragraph (4) of the Territorial Planning and Development Act of 27 March 2003, the public interest must be interpreted in the light of the objective view of the general public or local communities related to spatial planning²⁰.

The Territorial Planning and Development Act does not explicitly formulate spatial planning objectives. Spatial planning covers in particular: spatial order requirements, including those of urban science and architecture; architectural and landscape qualities; environmental requirements, including water management and the protection of soils and cultivated forests; requirements on the preservation of cultural heritage and modern cultural achievements²¹.

The law provides for the principles of space policy, the field and procedures relating to land and buildings – by adopting spatial plans and sustainable development as the basis for these activities²².

In addition, there are numerous laws on urban planning and land-use planning, laws that complement the legal framework in the field. These include: the Environmental Protection Act of 27 April 2001, the Law on the Protection of Historical Monuments of 23 July 2003, the Public Procurement Act of 29 January 2004, the Geodetic and Cartographic Law of 17 May 1989, the Energy Act of 10 April 1997, The Geological and Mining Act of June 9, 2011²³.

Last but not least, the Civil Code, which regulates the agreements between the parties, and also regulates the issues of property ownership and servitude of urbanism.

¹⁸ Articolul 1 din Legea Construcțiilor din 7 iulie 1994.

¹⁹ <http://www.polishlaw.com.pl/newapp/index.php#ui=8890,1502617445>, accesat 11.08.2017.

²⁰ Art. 2, alin. (4) din Legea privind amenajarea teritoriului și dezvoltare Act on Spatial Planning and Management din 27 martie 2003.

²¹ http://commin.org/upload/Poland/PL_Planning_System_in_English.pdf, accesat 10.08.2017.

²² Articolul 1 din Legea privind amenajarea teritoriului și dezvoltare din 27 martie 2003.

²³ http://www.paih.gov.pl/polish_law/construction_process.pdf, accesat 05.08.2017.

4. The French Republic - reference elements and legal framework in the matter

France, officially the French Republic, is located in the Northwest of Europe. The surface of France is 551,500 km², with a population of 58,370,000 and a density of 106 places/km². In the last decades, France has undergone profound changes, rapid urbanization and suburbanization, transforming many former rural areas. At the same time, many of the big cities have faced a growing need for renovation and rehabilitation²⁴.

France has a bicameral legislative parliament made up of members of the National Assembly and the Senate. The president is elected by direct universal suffrage as head of state. The Constitution gives the President the power to appoint the Prime Minister and the Council of Ministers²⁵.

The main local government units, defined by constitution as *collectivités territoriales* („territorial collectivities”), are the overseas regions, departments, communes and territories.

A small number of local governments, known as *collectivités territoriales à statut particulier* („special-purpose territorial communities”), have slightly different administrative frameworks²⁶. Paris was often remodeled, and the most famous period was the middle of the 19th century, under the command of Georges-Eugène, Baron Haussman, who adopted Napoleon III's vision of a modern city without crowded alleys and a regular plan²⁷.

This is the most important and significant step in urban planning.

In 1970, the procedure for receiving building permits for private construction was greatly simplified, and since 1982, mayors have been responsible for granting building permits and urban planning policies²⁸.

In France, the legal basis in the field is the Urbanism Code. Besides this, we find numerous legislative acts or codes related to urban planning and spatial planning.

The ALURA Law on Access to Housing and Refurbished Urbanization on March 26, 2014 is an ordinary law that changes the legal status of urbanism documents: the territorial coherence scheme, the local urban plan, the community charter etc.²⁹

This is complemented and amended by several government ordinances. In this respect the following were issued: Ordinance no. 2013-638 of July 18, 2013, regarding the urbanism contentious, Ordinance no. 2013-1184 of December 19, 2013 on the National Urban Portal, Ordinance no. 2013-888 of 3 October 2013 on the integrated

²⁴ www.britannica.com, accesat 21.08.2017.

²⁵ www.britannica.com, accesat 21.08.2017.

²⁶ www.britannica.com, accesat 21.08.2017.

²⁷ www.britannica.com, accesat 21.08.2017.

²⁸ www.britannica.com, accesat 21.08.2017.

²⁹ <https://www.village-justice.com/articles/loi-ALUR-renovation-des-regles,16606.html>, accesat 20.08.2017.

housing procedure and Ordinance no. 2013-889 of 3 October 2013 on the development of housing construction.

The Territorial Development Directives were established by the Territorial Planning and Development Act of 4 February 1995 and by the Law on Urban Solidarity and Renewal of 13 December 2000. These are included in the Urbanism Code, in particular in Article L111-1-1 and Article L121.1³⁰.

At the same time, the Environmental Code has an essential role, since, besides the main environmental regulations, it also refers to the preliminary consultation procedures organized under the Urban Code³¹, and the Civil Code regulates the property and urban planning regime.

5. Short Conclusions

In order to strike a balance between the public interest expressed by the urbanism rules, the field in constant evolution, and the particular interest, the regulations in the field have been adapted and liberalized. In France, the legal basis in the field is the Urbanism Code. Besides this, we find numerous legislative acts or codes related to urban planning and spatial planning.

The major challenge faced by Europe requires closer cooperation between states, regions, cities, including small and medium-sized ones, and the establishment of sectoral policies at all levels, and territorial planning is the most effective means of facilitating such cooperation, generate smart, inclusive and sustainable growth and territorial cohesion in Europe, especially in metropolitan areas³².

In this respect, the document „The Perspective of Spatial Development of Europe”, which makes recommendations for the European Union (EU) space policies and the Member States³³.

Thus, European space policy is simultaneously a project, a process and a socio-cultural product³⁴.

With regard to space information infrastructure, the provisions of the INSPIRE Directive will allow the sharing of spatial information among public sector organizations and facilitate access to spatial information in Europe³⁵.

Environmental protection requirements must be integrated into the definition of Community policies and actions, in particular with regard to sustainable development. In Article 3, the TEU states that the Union promotes territorial cohesion for the benefit of its peoples.

³⁰ <http://www.cohesion-territoires.gouv.fr/Directive-territoriale-d>, accesat 22.08.2017.

³¹ Articolul L-120-1 din Codul mediului, actualizat în august 2017.

³² *Apud* Robert Bischin *Elemente de dreptul urbanismului in Romania si Uniunea Europeana.Legislatie, doctrina si jurisprudenta*, pp.199-200.

³³ http://www.mdrl.ro/_documente/dezvoltare_teritoriala/amenajarea_teritoriului/SDSC.pdf, accesat 18.08.2017.

³⁴ Vanolo, Alberto, *European Spatial Planning Between Competitiveness and Territorial Cohesion: Shadows of Neo-liberalism*, in *European Planning Studies* (2010), vol. 18, nr. 8, p. 2.

³⁵ <https://inspire.ec.europa.eu/about-inspire/563>, accesat 24.08.2017.

Regarding the legal framework in Poland, we encounter a series of laws related to urban planning and spatial planning but, however, only two of them have specific attributions in the field, the most important being the Construction Law of 7 July 1994. In France, the situation is different, as there is a Urbanism Code that also includes the relevant laws.

In both countries, urban planning and spatial planning and planning plans are numerous and sufficient to implement spatial planning decisions and land-use planning guidelines. In both Poland and France, construction works can only be started after obtaining a building permit or building permit, and if a construction has to be demolished, the competent authority will issue a demolition permit.

In France, unlike Poland, the non-contentious administrative procedure has several aspects and is clearer, and an important role in this process has the State Council. Correlatively, sanctions in the matter are better defined in France, as is clear from the analysis.

REFERENCES

- www.britannica.com,
<http://www.mdrap.ro/dezvoltare-teritoriala/amenajarea-teritoriului/amenajarea-teritoriului-in-context-european>, accesat 18.08. 2017
<https://www.village-justice.com/articles/loi-ALUR-renovation-des-regles,16606.html>, accesat 20.08.2017
<http://www.cohesion-territoires.gouv.fr/Directive-territoriale-d>, accesat 22.08.2017
http://www.mdrl.ro/_documente/dezvoltare_teritoriala/amenajarea_teritoriului/SDSC.pdf, accesat 18.08. 2017
<https://inspire.ec.europa.eu/about-inspire/563>, accesat 24. 08. 2017
<https://urbani.pl/prawo-i-przepisy/> accesat 31.07.2017
<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023221.pdf>, accesat 11.08.2017
<http://www.legislationline.org/countries/country/10>, accesat 10.08.2017
<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023221.pdf>, accesat 11.08.2017
 Bischin, Robert, *Elemente de dreptul urbanismului in Romania si Uniunea Europeana. Legislatie, doctrina si jurisprudenta*, Editura C.H.Beck, Bucuresti, 2016
 Devillier, J.Morand, *Droit de l'urbanisme*, Ed. Estem, Paris
 Lewis, O., 1973, Some perspectives on urbanization with special reference to Mexico City. In A. Southall, editor, *Urban Anthropology: Cross-Cultural Studies of Urbanization*. New York, NY: Oxford University Press, 125-138,
 Minea, Elena Maria, *Urbanism și amenajarea teritoriului, Suport de curs*, Cluj Napoca, 2014

Pascariu, Gabriel, Urbanism românesc în context european. Patru decenii de cronologii paralele, *Revista Urbanismul*, nr. 7/2010-8/2011

Sykora, Ludek, Local and regional planning and policy in East Central European transitional countries, in Martin Hampl et al: *Geography of societal transformation in the Czech Republic*

Regional_policy_and_planning_in_Europe.pdf

Vanolo, Alberto, European Spatial Planning Between Competitiveness and Territorial Cohesion: Shadows of Neo-liberalism, in *European Planning Studies* (2010), vol.18, nr.8, p.2

The Charter of European Urbanism, art. 7, disponibilă la www.rur.ro/download/1485, accesat 18.08. 2017