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**TERRITORIAL GOVERNANCE AND SPATIAL
PLANNING SYSTEMS IN EUROPE: A COMPARATIVE
SURVEY BASED ON THE ESPON PROGRESS**

Relatore
Umberto Janin Rivolin

Candidato
Nicole Mulassano

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Preface

The territorial governance and spatial planning systems vary from country to country, because they depend heavily on institutional settings, on economic and social conditions, on national policies and on the attention and importance they receive; therefore in Europe there are various differences, but also similarities.

The present thesis arises after the author's involvement through an internship in the ESPON COMPASS project, which analyses, in a comparative and comprehensive way, the territorial governance and spatial planning systems in Europe. However, the thesis goes further than experience, deepening the analysis through previous ESPON research projects that addressed the same topics, especially ESPON TANGO and ESPON 2.3.2.

ESPON stands for "European Spatial Planning Observation Network" (ESPON) which is a European Union programme of applied researches in the field of territorial governance and spatial planning. In particular, the aim of the COMPASS research project (2016-2018) is to improve the general knowledge of this matter and to describe the main changes that took place in Europe since 2000. The TANGO project (2011-2014) previously analysed how the territorial governance is organized throughout Europe, while the ESPON 2.3.2 project (2004-2006) included a comparative review of the planning systems at that time.

The countries under scrutiny are 32, i.e. the 28 member states of the European Union, plus Iceland, Finland, Switzerland, and Liechtenstein, which are included in the ESPON area. This thesis adopts the comparative and comprehensive character of the ESPON projects, as it continues to consider all the 32 countries, and particularly derives from their progress a survey on those aspects that can be crucial in the operation of territorial governance and spatial planning systems: the spatial rights that are recognized in respective constitutions, i.e. the property right, the expropriation right, the development right; the administrative levels of territorial

governance with their relative planning instruments; and the nature of the local plan, which allocates development rights and regulates urbanization. The thesis consists of six chapters, plus the present introduction and the final conclusions.

In the first chapter, the three ESPON projects are presented, describing their objectives, the expected results and the methodology; furthermore, it is described specifically the internship activity carried out at the TU Delft Urbanism Department and then the main reference literature used.

Next, the second chapter deals with the theme of two related kinds of spatial rights - the property and expropriation rights - analysing the characteristics and their legal protection. It proceeds with a parenthesis with a focus on the countries belonging, in the past, to the so-called Soviet Bloc, as they have seen the nationalization of land, with the consequent abolition of private property and, subsequently, the privatization of land with the restoration of private property. It has been chosen to investigate this theme as a characterizing and determining element of the planning system of the aforementioned countries.

The third chapter deals with the development right, its assignment, the definition of three models, conformative, performative and neo-performative, based on the characteristics of the plan and control devices, and the control mechanism of the development through the building permit; the latter is also studied in its procedure.

Chapter four tries to catalogue the countries on the basis of the administrative levels of territorial governance and their related tools for spatial planning, highlighting their functions and their characteristics.

Then, chapter five, focuses on the local plan, that is the land use plan, which is present in all countries albeit in different forms. It begins by briefly extending the analysis to the other plans at the local level, thus highlighting the attributes of the land use plan and looking for any missing feature of it in the other local level tools; hence going to distinguish any cases in which the land use plan presents all the characteristics necessary at the local level and cases in which these attributes are divided among various instruments. Then it is examined the land use plan itself, its

training procedure, underlying particularly the phases of drafting, approval and the participation of citizens in the process.

Finally, in chapter six, the synthesis of the survey is concentrated, on the major findings that can be retrieved from a transversal reading of previous chapters. Here, similarities and differences between the various countries are investigated, trying to group the countries as much as possible, or trying to associate them with idealized models according to various attributes; spatial patterns will also be sought in order to determine possible factors causing similarities or differences. This chapter will also describe the changes that occurred in the last 20 years.

The conclusions of the thesis report a final synopsis of the work done and the main results that have been achieved.

1. The reference context of the survey: the ESPON projects

This chapter introduces the three ESPON research projects that were examined in order to address the topic of this study: projects ESPON COMPASS, ESPON TANGO and ESPON 2.3.2 are presented describing the main goals, the expected results and the methodology. The internship activity held at the TU Delft Urbanism Department will also be displayed, explaining all the steps followed and describing also the activity continued afterwards, i.e. a deepening of the data. Lastly, other reference literature concerning comparative analysis will be presented.

1.1 ESPON – European Spatial Planning Observation Network

The European Spatial Planning Observation Network (ESPON), nowadays European Territorial Observatory Network, is a European Union programme supported by structural funds, in particular the European Regional Development Fund (ERDF), since the cooperation initiative INTERREG III of the 2000-2006 period. This programme aims to the objective of the European Territorial Cooperation of the European Union Cohesion Policy, and to an harmonious development of the territory. Thanks to applied researches, the territorial development is observed and knowledge is provided on territorial trends and impacts of territorial policies, in order to support the formulation of new development policies.

The material produced by ESPON consists in data and information on trends and territorial dynamics, highlighting the potentials to which territories can head and the challenges to face which contribute also to European competitiveness, to cooperation and to a sustainable and balanced development. This analysis concerns

the 28 member states of the European Union, plus four further ESPON members, i.e. Iceland, Liechtenstein, Norway and Switzerland (Figure 1).



Source: author's own elaboration based on ESPON

Figure 1: Countries participating in the ESPON research projects

The ESPON researches and studies have been produced along the three editions of the programme so far, namely:

- ESPON 2006 (2000 – 2006);
- ESPON 2013 (2007 – 2013);
- ESPON 2020 (2014 – 2020).

The ESPON 2006 programme dealt with analysing impacts and influences of European policies, aiming to improve their coordination through the provision of appropriate and integrated instruments, and with identifying and examining territorial trends of European territory, issuing representative maps on different topics useful for the development of territories, which underline the opportunities and potentialities; it also provided indicators that help the monitoring, promoting a balanced development.

The applied researches of this programme deal with several spatial issues of different nature, the research fields can thus be different, like, for example, i) sundry thematic projects, among them the polycentrism, the urban-rural matter, the natural hazards, the natural and cultural heritage and others, ii) political impact projects, including the Governance project (2.3.2) that occupies a fundamental position in the investigation and implementation of European policies, and iii) thematic projects on cross-thematic coordination.

The ESPON 2013 programme was focused on the theme of European Territorial Cooperation. The mission of this programme was to *“support policy development in relation to the aim of territorial cohesion and a harmonious development of the European territory by i) providing comparable information, evidence, analyses and scenarios on territorial dynamics and ii) revealing territorial capital and potentials for development of regions and larger territories contributing to European competitiveness, territorial cooperation and a sustainable and balanced development”* (<https://www.espon.eu/programme/espon/espon-2013-programme>).

The programme gave place to different projects of applied research that highlight potentialities, challenges and opportunities; among there, there is a project

on Governance, i.e. the Territorial Approaches for New Governance (TANGO). The programme also proposed a Scientific Platform with data, indicators and analytics tools.

Based on previous experience, the ESPON 2020 Cooperation Programme, aims to support and improve the efficiency of the policies financed by funds of the European Structural Investment (ESI), particularly the European Cohesion Policy.

The main aim of the project (<https://www.espon.eu/programme/espon/espon-2020-cooperation-programme>) is developed in “five specific objectives that will guide the implementation of the programme:

- *Specific objective 1: Enhanced production of territorial evidence through applied research and analyses;*
- *Specific objective 2: Upgraded knowledge transfer and use of analytical user support;*
- *Specific objective 3: Improved territorial observation and tools for territorial analyses;*
- *Specific objective 4: Wider outreach and uptake of territorial evidence;*
- *Specific objective 5: Leaner, and more effective and efficient implementation provisions and more proficient programme assistance.”*

Also this programme presents different applied researches, among them there is one on Territorial Governance, i.e. a Comparative Analysis of Territorial Governance and Spatial Planning Systems in Europe (COMPASS).

1.2 The COMPASS project

During the ESPON Cooperation Programme 2020, it has been commissioned to the Urbanism Department of the Technical University of Delft (TU Delft, The Netherlands) to conduct a comprehensive and comparative analysis: the COMPASS Project, a Comparative Analysis of Territorial Governance and Spatial Planning

Systems in Europe (2016-2018). This applied research, which aims to make an effective comparison, turns out to be the first, of a comprehensive type, since 1997, when the European Commission involved academics belonging to the then 15 EU states in the drafting of “The EU Compendium of spatial planning systems and policies” (European Commission, 1997) then updated through subsequent studies. The difference between the EU Compendium and the COMPASS project is that the result of the first consist of a series of reports, one for each country, thus missing an actual comparison, leaving it to the reader, while the second produces a report in which all countries are analysed at the same time, resulting in an actual comparison.

From 1997 to today, the number of member states in almost duplicated, the territorial dimension of the European sector policies has deepened and numerous reforms, sometimes even radical, occurred in relation of the territorial governance and spatial planning systems. These reforms were, in part, stimulated by European initiatives, such as the European Spatial Development Perspective (European Commission, 1999), the Territorial Agenda 2020 (European Commission, 2011), and other European sectoral policies, like the Cohesion Policy.

The combined effect of these reforms in terms of relations between European policies and territorial governance and spatial planning in the member states is uncertain; the knowledge of the nature of European territory and its development has improved considerably, especially thanks to the ESPON programmes. However, the understanding of the means by which member states try to shape territorial development is lacking; at the same time, the demand for such knowledge has grown. European reports and studies, such as the Sixth Report on Economic, Social and Territorial Cohesion (European Commission, 2014), and the report “An Agenda for a Reformed Cohesion Policy” (Barca, 2009), seek more valid territorial governance; a particular need arises to review the relationship between territorial governance, spatial planning and European sectoral policies, especially Cohesion Policy (ESPON, 2017).

The main intent of the COMPASS project is to elaborate an authoritative, structured and especially comparative report, which analyses the role of territorial

governance and spatial planning systems, that is being fundamental components in formulation and implementation of cross-sectoral integrated development strategies and of implementation mechanism of European policies (ESPON, 2017).

The most relevant part of the project for the elaboration of this study is the one in which territorial governance and spatial planning systems of all the countries involved are described, in detail, highlighting the changes that occurred in the last twenty years, i.e. from the publication of the EU Compendium, to today, describing common elements, differences, reasons of the changes, exploring trends and relations among them and with practices and procedures. Further, the COMPASS project pays attention to the cross-fertilization of the spatial and territorial development procedures with the European Cohesion Policy, pointing out representative case studies, and to the European Cohesion Policy and other sectoral policies, since they influence the territorial governance and spatial planning systems and vice versa.

In order to investigate these elements, a methodology is necessary to acquire important information, to allow a meaningful comparison and to explain the evolution of the systems. Within the framework of European programmes, such as ESPON, various projects explored aspects of territorial governance and spatial planning, thus providing a starting point for this study (see the reference literature in section 1.6).

However, the aim of the project is to overcome the approach of previous analysis and to integrate a dynamic and comparative perspective into the study (ESPON, 2017).

The report resulting from this project, is based on data collected through the data collection phase. This phase is composed by two moments, the first about the questionnaires that each country expert has compiled, and the second concerning the validation of data through the quality control.

The questionnaires deal first the terminology matter, since the “territorial governance” and the “spatial planning” are emerging and currently still evolving concepts, thus their meaning; besides, these terms are not conceptually equivalent

in the native language of each country, therefore it is necessary to understand the various interpretations. Subsequently, a section of the questionnaires concerns the organization of administrative levels with planning skills and the related planning tools; to follow, the section about the constitutional and legal framework, which analyzes the various planning rights; finally, the sections concerning the influence of European legislation and policies.

So, the analysis carried out through the questionnaires on the relationship between territorial governance, spatial planning and European policies, is focused on four dimensions (see also: Janin Rivolin, 2016):

1. the structure, that is the set of Constitutional and juridical provision in charge of territorial governance (system concepts, vertical and horizontal relations, legitimacy of planning and control activities);
2. tools, i.e. planning and control devices such as plans and programmes, forms of incentives, monitoring procedures, etc.;
3. the discourse, that is the formal and informal evaluation of the overall results of the territorial governance in an institutional context (political, technical and common discourse); and
4. practices, the social experience of local implementation of urban and territorial policies through plans and projects .

These dimensions represent the components of the territorial governance systems and implement a circular relationship consisting of up-load and down-load of influences, approaches and ideas between the levels of national and regional government with the European level; there are also influences between different sectors due to the importance of territorial cooperation at levels including transnational, inter-regional and cross-border (ESPON, 2017).

1.3 Internship at the TU Delft Urbanism Department

The internship experience, from which the present thesis emerged, was carried out at the Urbanism Department of the Technical University of Delft (Department of Urbanism, Technische Universiteit Delft), taking part in the applied research COMPASS – Comparative Analysis of Systems of territorial governance and Spatial planning in Europe. Specifically, the contribution to this project involved the review and analysis of six questions of the questionnaire, namely:

- Question 19: *“Describe the Constitutional framework for spatial planning in your country by indicating what rights exist, who holds such rights and how they are regulated and supervised”*.

Through this questions, those rights that influence the work of spatial planning were identified, it was therefore necessary to clarify who holds property rights, who holds development rights, if these are Constitutionally protected, if they exist, to whom belong the right of expropriation, and finally it was required to explicit any other relevant right in the spatial planning framework.

- Question 20: *“Provide a single diagram explaining the main steps in the process of making a plan that allocates development rights, or provide a policy framework for the allocation of development rights, as at the end of 2016.”*

It was requested to indicate, through a diagram, the main steps of the formal process as indicated by the legislation, including possible moments of participation of stakeholders or public citizen, highlighting their duration; moreover it is required to indicate the moments of legally binding commitment to development, sometimes defined as “decision-making moment”.

- Question 21: *“Provide a simple diagram explaining the main step in the process for applying for and granting of development rights (permit or permission)”*.

It was required to indicate the main steps of the formal process, as indicated in the legislation, highlighting participatory moments of stakeholders and public citizens, explaining the duration and indicate, where possible, times and procedures for appealing to decisions.

- Question 22: *“Explain any significant changes that have been made to the procedure for allocating development rights from 2000 to 2016.”*

It was thus required to explain occurred changes in terms of allocation development rights, i.e. changes in how the land use plan assigns the development rights.

- Question 23: *“Describe any significant changes in the Constitutional and legal framework for spatial planning from 2000 to 2016 with reference to important conditions and drivers. Are more changes expected in the future?”*

It was required to report the changes that occurred in terms of legal reforms, i.e. new Land Acts, Expropriation Acts and others that influence the territorial governance and spatial planning systems.

- Question 24: *“Do you have other comments on the structure of the spatial planning system? Are the other important planning tools that have not been considered so far, or important changes to the planning system in your country that have not been raised?”*

It was required to report other issues which have not been considered by the previous questions.

The experience developed in Delft can be divided into three sections: the first, concerning the acknowledgment and the analysis of the questionnaires, the second concerning bibliographic insights on the topic; and the least concerning once again the survey of the questionnaires as they have been sent back to the experts asking for clarifications on incomplete or unclear questions.

The information gathered from the questionnaires concerning the question from 19 to 24 has been elaborated and represented through graphs, tables and other, and some results will be part of the following chapters.

The work developed for the elaboration of the present thesis, however, goes further, as an investigation has been carried on about on issues related to territorial governance and spatial planning systems, in previous ESPON projects, such as ESPON TANGO and ESPON 2.3.2, and thanks to the reference literature, which will be described in the following sections.

1.4 The TANGO project

The ESPON TANGO project, Territorial Approaches for New Governance (2011-2014), fits in the ESPON 2013 programme as an applied research, and states that territorial governance is a relevant element in order to achieve the European Territorial Cohesion objective.

Thus, the project, focalizes on European Territorial Governance, giving its own definition, i.e. “ *the formulation and implementation of public policies, programmes and projects for the development of a place/territory by i) co-ordinating actions of actors and institutions, ii) integrating policy sectors, iii) mobilising stakeholders participation, iv) being adaptive to changing context, v) realising place-based/territorial specificities and impacts.*” (ESPON 2013, p.11).

Accordingly, the projects analysed the process leading to a territorial development result and to the achievement of a territorial objective, coherent with the European 2020 strategy, through the implementation of policies, programmes and projects defined by actors and institutions.

Five dimensions of territorial governance are identified, on which TANGO is based and structured: starting from a literature review, territorial governance typologies are identified, indicators useful to a valuation of territorial governance’s quality are defined, 12 case study are chosen, transferable characteristics of the government system are identified and finally a guide with good practices for practitioners policy and decision maker is proposed.

Thus, starting from the literature, the project analyses previous studies that have produces classifications (see section 1.6), then uses six indicators of the World Bank’s Worldwide Governance, related to 2010, to obtain a clustering with the aim to examine the governance quality. The indicators are (ESPON 2013, p. 40):

“1. Voice and accountability – the extent to which a country’s citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media;

2. *political stability and absence of violence – the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically motivated violence and terrorism;*
3. *government effectiveness – the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government’s commitment to such policies;*
4. *regulatory quality – the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development;*
5. *rule of law – the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence; and*
6. *control of corruption – the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as “capture” of the state by elites and private interests.”*

Six clusters, resulting from the process mentioned above, are then used to structure the subsequent analysis, carried out by questionnaires; the first part of the questionnaires is focused on national trends of European Territorial Governance, regarding the periods 1990-1999 and 2000-today, and three specific policy areas, i.e. water management, urban and regional planning and public transport provision, examining them *“under three main topics: i) the distribution of power, responsibilities and resources between government tiers, ii) the relations between national and sub-national governments and between public and private sector bodies, and iii) the relations with the community groups and the general public”* (ESPON 2013, p. 45). The second part is focused on national approaches, under five key dimensions i.e. integrating policy sectors, co-ordinating the actions of actors and institutions, mobilizing stakeholder participation, being adaptive to changing context and promoting a place-based/territorial approach to decision making.

The project then continues with the finding of twelve case study, in order to highlight any obstacles to good territorial governance and in order to identify how to

overcome them. The 12 case studies (Table 1) are identified to better represent the identified cluster and the administrative levels.

1	A Climate Change Adaptation Strategy for the Baltic Sea Region
2	Territorial Governance to achieve resource efficient urban development in Stockholm: good practices without consistency
3	Integration between public transport and urban development in the metropolitan region of Rotterdam-The Hague
4	Cross-border Cooperation in the River Rhine Basin
5	Target-based Tripartite Agreement among European Commission, Italian Government and Lombardy Region
6	The territorial governance process within the South Loire Schéma de Cohérence Territoriale (SCOT)
7	Reinventing regional territorial governance - Greater Manchester Combined Authority
8	Is small really beautiful? Neighbourhood Planning in the UK, North Shields Fish Quay
9	Building Structural Fund Management systems. Learning by doing or imitating?
10	The ECC Pécs Project and the challenges of territorial governance
11	Public transport strategies in Ljubljana Urban Region (LUR)
12	Governance of natural areas in the Alpine Adriatic area: Trilateral Nature Park Goričko-RaabÖrség

Source: author's own elaboration, based on ESPON 2013

Table 1: The 12 case studies of ESPON TANGO

Afterwards the project proceeded and ended following these steps (ESPON 2012, p. 13):

- “- giving insights concerning promoters and inhibitors for territorial governance*
- Illustrating the possible supporting role of spatial planning instruments and other instruments in good territorial governance*
- Developing a model for identifying transferable features of territorial governance*
- Designing a guide with good practices for territorial governance, building on 12 in depth case studies undertaken.”*

1.5 The ESPON 2.3.2 project

The ESPON 2.3.2 project, Governance of Territorial and Urban Policies from EU to Local Level (2004-2006), had the task to evaluating the efficiency in pursuing territorial development strategies and objectives by the legal systems and the various integrated approaches; it defined and developed a common base useful for the investigation and evaluation of institutional and instrumental aspects of the implementation of urban and territorial policies in Europe.

The project is the first that presents its own definition of territorial governance, also identifying positive elements that lead to the definition of a "good" governance. Governance, therefore, is *"the process of territorial organisation of the multiplicity of relations that characterize interactions among actors and different, but nonconflictual, interests. This organisational dimension refers to the construction of a shared territorial vision, based on the recognition and valorisation of the territorial capital needed to create sustainable territorial cohesion at different levels. In other words, territorial governance is the conditio sine qua non to guarantee more balanced development across Europe and to achieve territorial cohesion. [...] To summarise, we define territorial governance as a process of the organization and co-ordination of actors to develop territorial capital in a non-destructive way in order to improve territorial cohesion at different levels."* (ESPON 2006, p. 12).

Thus, the project investigates the territorial governance, both through a theoretical work and a comprehensive overview of the system through National overviews; defines indicators related to factors that promote or hinder a successful governance; identifies case study that add value to the governance and also elaborates policy recommendations and a good practice guide on governance.

The National Overviews deals with different characteristics, among them, the ones relevant to this thesis are the analysis of the system, i.e. the different administrative levels and other actors, reporting their structure, skills, responsibilities and resources, the analysis of planning instruments, of the participating process and

reporting the trends, as centralization / decentralization / devolution of spatial planning and changes in government and administration.

This programme provided also a classification of territorial governance and spatial planning systems, based on four ideal types or their hybrid combinations; however this has undergone various criticism for the method used (Nadin et Stead, 2008) as it deals with ideal types as containers and not as reference models (Janin Rivolin, 2016), thus generating inaccuracies in the classification.

1.6 Reference literature

At the base of the reference literature, there are previous analyses that tried to classify the territorial governance and spatial planning systems in Europe, in particular two comparative studies carried out by individual editors and authors (Davies et al. 1989; Newman et Thornley 1996) and the already mentioned EU Compendium (European Commission, 1997). These followed two different approaches: the first two have opted for a classification based on “legal families” and administrative systems, the latter proposed a classification based on more complex ideal types.

In general, the legal families are grounded only on the legal basis, i.e. on legal certainty granted by the system; while the ideal types are understood as abstract models of reference based on various factors, of which the real systems have more or less marked characteristics.

The first study (Davies et al., 1989) was commissioned by the British government, and fits into an investigation of the methods of public control of spatial transformations; five North-European countries are analysed, i.e. Denmark, France, West Germany, Netherlands and, with particular attention, United Kingdom. Two families are thus identified, following a previous comparison of Dutch and English systems by Thomas et al. in 1983, which places its attention on legal certainty

provided by the system. The *Continental family*, is based on civil law, and thus is characterized by a predefined set of norms, laws and codes, in which Denmark, France, West Germany and Netherlands are identified; and the *British family* is featured by the common law approach, where there is no predefined set of law, but it is built case by case.

A few years later Newman and Thornley (1996) applied the same methodology described above enlarging the research to 14 European states, using thus five legal families defined by Zweiger et al. in 1987, i.e. the German, the Scandinavian, the Napoleonic, the British and the East-European.

The study that proposes a different kind of classification is the EU Compendium of Spatial Planning Systems and Policies (European Commission, 1997), which involves 15 European countries and overcomes the main limit of previous studies, i.e. the fact that they were based on only one criterium, the legal system one. The Compendium's classification is instead based on a wider set of seven factors:

- The purpose of the system in terms of policy and topics
- The extension and type of national and regional planning
- The power location and the division of competences between central and local government
- The roles of private and public sectors
- The legal system
- The maturity and completeness of the system
- The gap between the declared objectives and the results.

From these factors, four ideal types, or spatial planning traditions, are defined (see: Janin Rivolin, 2016):

1. The *comprehensive integrated* approach, where planning is conducted according to a very systematic formal hierarchy, integrating different sectors but focusing more specifically on spatial co-ordination rather than on economic development;
2. The *regional economic planning* approach, in which the central government plays a fundamental role and planning has a very broad significance relative

to the pursuit of broad social and economic objectives, in relation to the disparity of wealth, employment and social conditions;

3. The *land use management*, where planning is closely linked to the task of controlling changes in land use and the authorities are the main actor, while the central government has the task of supervising;
4. The *urbanism tradition*, which has a strong architectural taste and a marked concern for urban planning, the physical form of the city and the development control, are therefore present rigid zonings, codes, laws and regulations, but the systems are not so well defined and fail to direct political priority or general public support.

Davies et al., 1989		Common Law		Civil Law	
		UK		DK, DE, FR, NL	
Newman et Thornley, 1996	Nordic	British	Germanic	Napoleonic	
	DK, FI, SE	IE, UK	AT, DE	BE, FR, IT, LU, NL, PT, ES	
EU Compendium 1997	Comprehensive integrated	Land use management		Regional economic	Urbanism
	AT, DK, FI, DE, NL, SE	IE, UK, (BE)		FR, PT (DE)	GR, IT, ES (PT)

Source: author's own elaboration based on ESPON 2013

Table 2: Classification of the planning systems

However, the bibliography is not limited to the above studies that have attempted a classification, but also includes other analyses that have focused on the territorial governance and spatial planning systems in different countries; this

growing body of comparative literature highlights the major changes involving planning systems, both in institutions and in tools.

A recent study that enriches the literature is the special issue on the journal “Planning Practice and Research” (Nadin, 2012), which aims to construct a more general image of spatial planning trends. Much attention is paid to the methodology to be followed, there is no aim to report on the legal and administrative characteristics of the systems, although the emphasis is placed on Constitutional and legal provisions and on the description of the formal structure of competences, tools and procedures, but also cultural, social, environmental and economic aspects are analyzed that differentiate and characterize the different countries in a unique way. This research prefers a multi-scalar approach with a perspective focused on the actors, highlighting the interactions between actors and institutional elements and between both formal and informal elements.

The OECD (Organization for Economic Cooperation and Development) has also provided a systematic overview (OECD, 2017) through 32 information sheets, one for each member country, which expose the responsibilities to the different levels of government regarding policies for the use of territory, describing the different types of spatial policies and land use plans in the country, including the key features of the planning system and also providing a diagram illustrating the relationships and hierarchies of all spatial plans. In conclusion, it argues that the influence of all public policies on land use is fundamental, as the lack of this can lead to policies with contradictory incentives. Therefore, a more integrated approach requires with those policies that influence land use but which are not a part of the planning system. Furthermore, planning should be more than a technical attempt, and be a political and democratic process. The last key element is the strong public commitment associated with effective communication.

The ISOCARP International Handbook (Franchini, 2015), is a compendium on planning that aims to be a reference for the academic world as it provides background information for planners, developers and investors who wish to operate in countries that are not their own. In addition to a background on each country and

on the planning system, this manual focuses on planning practice; it gives to the reader a comparative vision of global planning, a comprehensive overview of the regulatory development process, through the use of a template that provides: general information on the country, the planning framework, or the structure and the political and institutional organization, the administrative competence for planning and the main planning legislation, and it also highlights the planning process with its tools, governance and sustainability issues, and finally the planning system in practice.

Moreover, a particularity can be found in the Baltic countries, or rather, the ones belonging to the former Soviet bloc. These countries have therefore seen a transition from systems characterized by structures, networks and institutions with a strong Soviet footprint towards a market economy and towards a new reality, that of the European Union. It was therefore a process of rapid evolution, characterized by numerous reforms, even radical ones, in order to be suitable and to access European structural funds, and thus be able to promote economic development, although it was driven exclusively by capital cities generating great disparities within the country. Given the importance of this process of changing, there are numerous studies that attempt to analyze this phenomenon on the disintegration of the Soviet system in favor of the accession to the European Union.

A project aimed to understand spatial development and spatial planning in the Baltic Sea Region (Belarus, Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Norway, Poland, Russia and Sweden) is COMMIn, which promotes spatial development by creating “COMon MINdscapes” i.e. mutual understanding by combining mind and landscapes, which aims to improve the exchange of transnational experiences and to make communication more efficient (<http://commin.org/en/commin/>). Thus providing information on constitutional, political and administrative systems, the analysis of the planning system is based on five categories: the Constitutional level, the national scale, the regional scale, the local scale and the participation, and for each of these asks questions such as who are the actors, what are the steps of the process and what is the role of the government.

2. Property and expropriation rights

In this chapter, two kinds of spatial rights will be faced, that are mutually connected, i.e. the property right and the expropriation right. It will be reported how these rights are legally protected through supra-national legislation, i.e. at the European level and the Council of Europe, and the main characteristics of these rights will be described. Moreover, there will be a deepening on the countries that belonged to the former Soviet Bloc, where the deprivation of property through the nationalization of territories for many decades, was followed by re- privatization, with the consequent return of land to its rightful owners.

2.1 Property right: protection and features

The property right, understood as we know it today, sees its origins in the seventeenth century, a period influenced mainly by the liberal philosophy that assigns individuals basic rights, among which the property right appears. This aims to protect the autonomy and freedom of individuals, preventing any interference from other individuals or the government. This right, therefore, entails the right to use a resource, to enjoy the benefits deriving from it, to sell it and to exclude others from the use of the same.

The Charter of Fundamental Rights of the European Union 2012/C 326/02 describes in art. 17 the property right: *“Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time*

for their loss. The use of property may be regulated by law in so far as is necessary for the general interest.” (European Union, 2012. p. 12). It is fully binding on the European institutions and the member states and responds to the need emerged during the Council of Europe in 1999 to define a group of rights and freedoms guaranteed to all citizens of the Union.

The European Court of Human Rights, an organ of the Council of Europe, an organization of 46 European countries that promotes European unity, human rights, parliamentary democracy and the rule of law, has drawn up the European Convention on Human Rights (ECHR), entered into force in 1953, which clearly protects private property; it presents an Additional Protocol, which came into force in 1954, in which article 1 states that no one will be deprived of his possessions except in the public interest. *“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”* (Council of Europe, 1950. p. 31)

To report, are the case of Finland, in which the national legislation on private property is more extensive than that of the European Convention (Pellonpää, 2005), and the case of the Constitution of Latvia which only in 1998, with the additional chapter 8, introduced the question of the property right.

Furthermore, the property right can belong to both a private citizen and to public administrations, even at different levels. This situation is found in all the States analysed, so the property can belong to the State, the Municipalities, the Cooperatives and other juridical persons and citizens; all of these can act as legal entities and therefore possess properties.

In addition, there are public-private "hybrid" forms and "collective" forms of property; for example, there are types of collective property in relation to apartments where each individual is the owner of a private part and a shared part, they then form an association or a community that has legal personality. For example, in Bulgaria there is "co-ownership" where the property right, an indivisible part, belongs to several people, and "joint-ownership", where everyone owns a

percentage of the property. In Germany, on the other hand, there is a co-ownership "for fractional parts" or in a community of owners; in the first case, the property belongs to different people in a certain relationship of sharing and each owner of a party can have independently his own share of the common title; in the second case, although the property belongs to more than one person, no percentage is applied and therefore the community can only dispose of the property together.

However, there is a characteristic that should be highlighted, that is, on what it's extended the property right of a land. Individuals exercise dominion over land owned and, following the principle of adhesion, they are also owners of the immovable objects on the ground. This principle makes property more exclusive and rigid, but not all countries follow this criterion.

In some countries, therefore, the property right is extended to buildings and trees on the ground as well as to the underlying soil. For example, in Bulgaria and Croatia, property on buildings is considered separately from that on the ground; otherwise, in countries such as Austria, Belgium, Switzerland, Germany, Malta, the Netherlands and the United Kingdom, the property right of a land also extends to the buildings above and, in some cases, also to those below, to the trees present and groundwater that emerges.

Particular is the case of Latvia, in which the question remains not clearly defined due to a succession of contradictory laws that have not been able to solve the problem.

The Latvian Civil Law Act (1937) states that a building, constructed and firmly connected to the ground, is considered part of it and that even trees and plants belong to the owner of the soil from the moment they are rooted in the earth (sections 968 and 973). Subsequently, section 14 of the Law of 1992 (Act on the Time and Procedure by which the Part of Introduction, Inheritance Rights and Rights on Things of the Renewed Republic of Latvia 1937 Civil Law Act Takes Effect of July 7, 1992) has generated various exceptions that deviate from the general principle, such as the inapplicability of sections 968 and 973 of the Civil Law in the case where the right of ownership has been renewed to the previous owner or his heirs. However, it

seems that the more lawmakers try to eliminate such exceptions, the more the relations between the landowner and the owner of the buildings become complicated. In addition, the processes of denationalization and privatization of the land, which occurred after the period under Soviet influence, (see section 2.2) in the early 1900s, did not favour the clarification of the situation as the buildings and land, having been nationalized separately, they have been privatized separately. Therefore, in the period in which the civil law was introduced, the separation between the land and the buildings was already present.

The great failure to tackle the problem with the 1992 legislation was the fact that the legislator provided no theoretical solution, but chose a faltering form of exclusion. To solve this situation, there are two ways: to completely extinguish this distinction by returning to the classical principles of the Civil Law Act of 1937, or to restore the "emphyteusis", a situation in which a person who is not the owner of a piece of land, has the right to use it as his forever. Today, the difficult relationship between the owner of the building and the owner of the land is solved by the obligatory lease between them (Rozenfelds, 2001).

2.2 Nationalization and privatization of land in former Soviet countries

The countries¹ shown in figure 2 have been, for historical circumstances and in different ways, under Soviet influence for a period of time.

The Union of Soviet Socialist Republics (USSR), commonly called the Soviet Union, was a federal state founded in 1922 and dissolved in 1991, composed by 15 Socialist Republics, including the Soviet Socialist Republics of Estonia, Lithuania and Latvia. At the end of World War II, the USSR turned out to be one of the most powerful nations

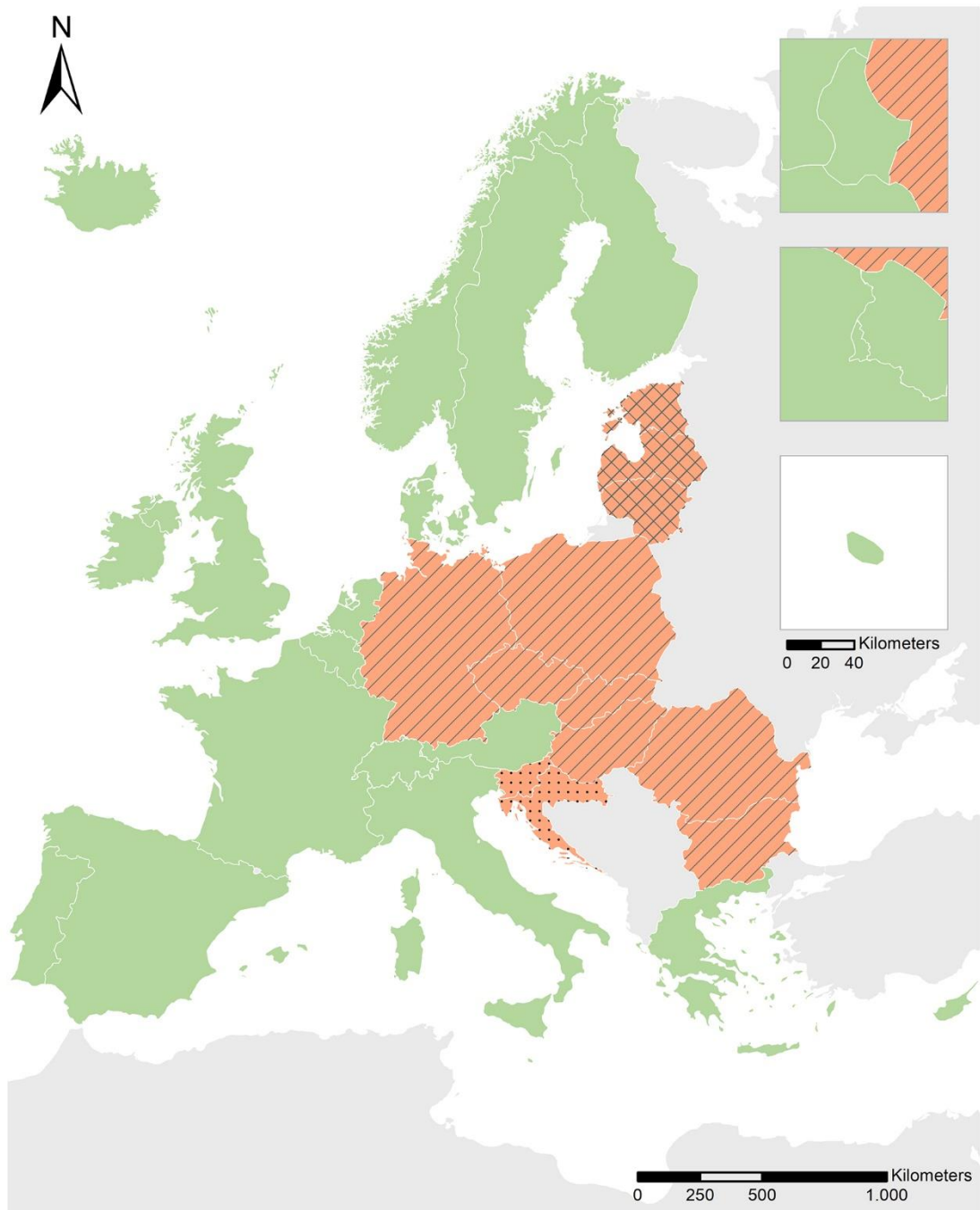
¹ Bulgaria, Czech Republic, Germany, Estonia, Croatia, Hungary, Lithuania, Latvia, Poland, Romania, Slovenia and Slovakia.

of the world, exerting a considerable influence on many states; for example, on the member state of Comecon, the USSR's economic community founded in 1949 which was including the closest allies of the Soviet Union. The countries of Eastern Europe² members of Comecon, had also signed the Warsaw Pact, officially the Treaty of Friendship, Cooperation and Mutual Assistance, consisting of a military alliance, becoming satellite states.






Moreover, the influence of the USSR extended, albeit in a lighter way, or only through economic and military aid, to other countries such as Yugoslavia (which included Croatia and Slovenia) even if the relationship was conflictual in as a socialist country, but declared itself neutral during the Cold War.

The USSR therefore exercised its influence by imposing its political and social system in the various countries, with an economy based on the principles of socialism in which the State possessed the means for production and the agriculture was collectivized. The latter implied two phenomena: the nationalization, through a full expropriation of land and property in favour of state farms and organizations, and the collectivization of land, in favour of cooperatives where boundaries and parcels were erased and ownership became part of a large complex.

² Bulgaria, East Germany, Hungary, Poland, Romania, Czech Republic and Slovakia, at the time Czechoslovakia.



Legend

- | | |
|---|--|
|  Non-Eastern bloc |  Comecon countries |
|  Eastern bloc |  Influenced countries |
|  Socialist Republics | |

Source: author's own elaboration

Figure 2: Countries under Soviet influence

With the collapse of the USSR during 1990-1991, a process of privatization and restitution of the land began, reconstructing property rights on the basis of historical registries systems. Each country has followed its own approach, however there are two possible processes for restoring property rights: the restitution of the land parcels to the original owners, for example as in the majority of cases in Czech Republic and Slovakia, and the compensation, in a monetary form for the suffered loss, as in the case in most of Hungary.

In order to obtain the return of the land, one must file a complaint; nevertheless, four issues must be defined in order to manage in an appropriate and non-discriminatory way:

1. Which actions of previous systems allow filling a claim. It has been defined that any action that has deprived an individual of his property under duress, is a complaint.
2. Who can file a complaint. This issue is dealt with in a different way by each country, from allowing only current citizens, to a situation where complaints are also accepted from distant heirs who have never lived in the country.
3. In which time period the expropriation must have occurred in order to file a complaint. Some states have tried to limit the timeframe, for example Hungary has tried to exclude all cases prior to the establishment of the communist government in 1949, but was rejected by the Constitutional Court that forced it to admit requests made throughout the Second World War (Pogany, 1997).
4. Any limitations on the size of the expropriated land and the extent of the claim.

In Germany, the restitution was included in the Unification Treaty of 1990 and was mostly physical; the practices were quick and the policies were more comprehensive and unequivocal, thus succeeding, by 2001, to resolve over 95% of the requests made by 20% of the population.

Similar to Germany, but with limitations on the amount of land that could be returned, were the Czech Republic, which favored a physical restitution, and

Slovakia. Otherwise, in Hungary the restitution was considered too arbitrary, so it was largely refused as a political option, thus opting for financial compensation that could be managed in such a way as to minimize the cost to the state. In Poland there was a general reluctance to engage in the restitution and a difficulty in agreeing on the procedures to be followed; only 34% of the complaints were processed, of which 77% were successful. In Hungary and Poland, however, there is an exception concerning the properties of the Roman Catholic Church that were returned to be exclusively used for religious purposes (Blacksell and Born, 2002). In Bulgaria and Romania, the restitution has so far played a limited role, mainly linked to the de-collectivization and privatization of farms and forests (Howe 1998, Staddon 1999), but in none of the two countries the impact was important (Schrieder et al., 2000). No country has therefore reached the levels of Germany, the closest were the Baltic States, among which Lithuania was the least enthusiastic; nevertheless, the objective of the latter was focused on encouraging the citizens to return, bringing back money and professional experience (Blacksell and Born, 2002).

2.3 Restrictions of property right: expropriation

Private property, absolute and exclusive, is an integral part of Western societies that make it an inviolable, sacred, or at least very strong right that can only be violated under very special circumstances and subject to "fair compensation". However, such strong definitions of ownership are questioned by those who indicate the existence of social responsibility as a result of ownership, and that the purpose of the latter is to promote the goals of society.

The property right can therefore have certain limitations deriving from urban planning, from the territorial government and consequently from the imposition of particular constraints such as protection. The Public Authority, during planning, has a number of tools in order to implement public works, among which the most

authoritative is the expropriation lien. Article 1 of the Additional Protocol to the European Convention on Human Rights (ECHR) that protects property also provides legal grounds for expropriation.

The concept of expropriation dates back to the nineteenth century when urban planning was mainly concerned with ensuring a better quality of life in the cities and pursued this goal through demolishing building blocks and correcting roads, thus achieving better hygienic and sanitary conditions and air cleanliness. The expropriation thus became a fundamental element to implement the methodical design of the city.

The expropriation constitutes the expression of the power of the Public Authority to limit the private property of the citizen through the acquisition of private land; however it is subject to legislation and is governed by a range of instruments, including norms at international and European level such as human rights conventions which generally allow expropriation if it meets three requirements, or standards: [i] compliance with the law, [ii] the public interest for the benefit of the community and [iii] adequate compensation. International legislation, including that on human rights, defines non-discrimination and compensation requirements; while European legislation provides more detail and clarity on expropriation conditions and procedures. In particular, it defines the need for the expropriation to satisfy the requirement of sustainability and necessity under the proportionality principle and that is required by clear and specific statutes that contain adequate safeguards to ensure that they do not occur arbitrarily, discriminatively or for invalid reasons.

Each Country, through the constitution or second level legislation, implements a complete legislation that ensures the safeguard against the ambiguity and injustice and that defines and specifies the procedures of expropriation, designating relevant authorities, elaborating the meaning of public interest and specifying the theme for compensation.

Subjects who have the authority to proceed by expropriation are, as a rule, all, or almost all, levels of the Public Administration; in some cases, the sphere of

subjects with this competence also extends to private companies, as happens in Austria, the Czech Republic (Rli, 2017) in France, Norway, United Kingdom, by proxy or in any case a consensus by the Public Administration, but also semi-governmental organizations and executive agencies (the Netherlands). For example, in Belgium and in the United Kingdom infrastructure authorities, or forest and real estate companies, or energy companies in Finland, water authorities in the Netherlands and service companies in the United Kingdom.

Regarding the procedure, a possible element, before proceeding with the expropriation, is the negotiation for a voluntary transfer of ownership. For example, countries such as Austria, the Netherlands and the United Kingdom require an attempt to negotiate before starting with the expropriation, while countries such as Germany and Poland require two attempts.

Participation is another element characterizing the process, for example, in the Czech Republic and in Spain the expropriation decision must be published for a certain period in order to obtain objections and to oppose, while in Croatia and the United Kingdom a public hearing is required.

A fundamental element in the process is the notification in good timing with justification and the opportunity to challenge, facing a neutral decision maker, the decision to expropriate; in countries like Finland, Croatia and Poland, should the appeal to the Ordinary Court fails, there is the possibility of appeal to a higher level Court, while in some states like Poland, Germany, Lithuania, Croatia and the United Kingdom, independent agencies or an independent inspector are appointed to oversee the expropriation procedure, identifying projects of public interest to justify the expropriation and providing an appeal procedure.

The expropriation must also be proportional to the public interest objective; the right balance must be reached between the demand for general interest and the protection of the rights of the individual. Each state therefore elaborates its own meaning of public interest, often providing a true exhaustive list, or not, of projects that satisfy this requirement, but generally it can be traced back to a benefit of the community, rather than to a particular individual, deriving from use of the

expropriated property. The notion of "public interest" generally refers to issues such as transport infrastructures, social services such as health and education, national defence and security, and environmental and landscape issues.

Among the analysed countries the most frequently mentioned issue, among those that determine a public interest, is related to transport infrastructures, followed by social services and national defence; also relevant are environmental issues such as the management of water resources and hydro geological risk, natural environment and landscape protection as well as economic activities and strategic projects. Afterwards, in some countries such as Germany, Estonia, Croatia and the Netherlands, the public interest also concerns energy production, minerals extraction, waste management and the protection of cultural heritage; and finally urban development, in countries such as Germany, the Netherlands and the United Kingdom.

Another distinction concerns the compensation that follows the expropriation; it must be adequate, effective and timely. Generally, this occurs in monetary form, but other arrangements are possible such as ownership of another property or transfer of property rights to another land. The states define the appropriate amount of monetary compensation, which is generally equivalent to the market value of the expropriated property, usually assessed by an independent expert, but in some cases it is possible that it result in a lower or higher amount; in the latter case it can include transition costs, legal fees and any loss of profit.

Sluysmans (2016) notes that the compensation definition approach is influenced by ideological factors; according to a liberal perspective, property is inviolable and this leads to a more generous compensation, while within a social and democratic perspective, in which private property is viewed in relation to the public benefit, the fee is more modest. However, the general tendency in Europe is to establish the remuneration in line with the principle of equivalence, or that principle where the owner must maintain the same economic level, i.e. the owner must neither improve nor worsen his economic situation following the expropriation of the property, aiming at a fair compensation based on the value that the land has for the owner and

not for the public entity that is acquiring it; an example is the United Kingdom. Otherwise, in countries such as Italy and Germany, where the social and democratic perspective is a basic element of the constitution, the fee is lower than the market value. Conversely, in examples such as the “Valenciano” model in Spain, the value of use and expenses are reimbursed through the compensation. Another example is Finland, where the value of the land is based on its use, which is "frozen" for seven years, avoiding any increase in the value given by a change in use, making to the owner less attractive the possibility of resisting expropriation.

Regarding the amount of compensation, some differences can be highlighted: countries in which compensation is defined "fair compensation", i.e. Bulgaria, Latvia and Slovakia; where it can be equivalent to the market value of the property, such as Ireland, Italy, Lithuania, Poland, Croatia, Finland, where however the fee must be determined according to the value of the land of 7 years before the beginning of the expropriation procedure, and Sweden, where the principle of "indemnification" is followed, i.e. the condition that the owner must remain in the same economic condition, but is compensated for the damage suffered; countries in which compensation is deemed as "full" and covers all "damages" as in Belgium, Switzerland, Denmark, Iceland, Hungary, the Netherlands, Greece and the United Kingdom; and countries where the compensation is flexible, as in Germany, or by mutual agreement as in Romania and Spain, where it is mutually agreed, but often very much debated.

There are also special characteristics concerning expropriation; for example, it is rare or even absent in countries such as Austria, Lithuania and Latvia, while in Spain and Finland land not built up within a certain time span are subject to possible expropriation, whereas in Switzerland not maximizing the potential of a lot is not a sufficient element for expropriation. In Germany, on the other hand, expropriation can take place in favor of a private entity if it serves as a public interest, for example in favor of a private school; and in Poland there is the possibility that this is temporary. Finally, in Slovakia, the legislation was strongly criticized because it divided the expropriative issue into many different rules and because it seems to

favour the interests of the state and private investors (Slovakia Investment Climate Statement, 2015).

3. Development rights and the building permit

This chapter deals with the development right and its assignment, thus going to design three models: conformative, performative and neo-performative, which are based on the characteristics of the plan and control devices. The control mechanism is also analysed, focusing on its main tool, the building permit, which will be explained also for its procedure.

3.1 The allocation of development rights

In the surveyed countries, there is a general tendency regarding the separation between the property right and the development right; being these considered in a distinct way, it follows that the ownership of a land does not entail the automatic development of it. The development right is therefore not conferred to the owner in conjunction with the property right, but is assigned by the public authority that holds it. This allocation process is generally linked to the Local Plan, which therefore, in the majority of the countries analysed, allocates the development rights, and is also subject to a control procedure.

On the basis of the five phases of the planning process, i.e. the definition of the strategy that the plan will have to follow, the plan itself, the presentation of the projects, the control phase and finally the issue of the building permit, we can identify three models that differ between them for the characteristics of plan and control devices; they are the conformative, performative and neo-performative models (Janin Rivolin, 2016, 2017).

The conformative model, typical of the countries of Southern Europe, is associated with a typology of a local plan adopted as binding, which defines a zoning,

markers and precise standards; the control phase verifies the compliance of the projects with the regulations defined by the plan and the strategy, and the rights are allocated with the adoption of the plan. The merit of this model is the certainty of rules and rights, however this implies a certain rigidity that is however overcome in some countries thanks to the variations, now ordinary, able to modify the plan in order to make it compliant with the projects.

The performative model, of Anglo-Saxon culture, is based on a non-binding plan with an indicative zoning; the rights are then assigned after the adoption of the plan, or during the control procedure in which the projects are negotiated in order to ensure the pursuit of the strategy. The positive side of this model is undoubtedly the flexibility which, however, entails the uncertainty and discretion of the decisions.

The neo-performative model is based on a binding plan which is however drawn up "on balance"; the strategy serves as a basis for the collection of projects that are negotiated and submitted to scrutiny, and are then used as a basis for drawing up the binding plan in which the rights are assigned.

During the twentieth century, various states in the North and Central Europe (for example Denmark, Germany, the Netherlands, Sweden) progressively changed their system in order to approach the performative model, thus moving away from the conformative model (Janin Rivolin, 2016).

3.2 The control mechanism

The development of a plot is however subject to a control mechanism, which guarantees the fulfillment of certain minimum requirements present in the regulatory system and therefore, for example, in building regulations. This control can be executed in four different ways:

- *Exemption*: i.e. those types of work that do not require a building permit;

- *Notification of edification*: those works that can be carried out without a building permit, if the authority has been notified;
- *Light procedure*: those works that require a permit, but compliance with the regulatory system only covers part of the requirements;
- *Standard procedure*: works requiring a permit and compliance concerns all the requirements.

Exemptions and standard procedures exist in all European countries, while notification and the light procedure are only available in some countries. (Branco et al., 2011)

From Table 3 you can see how, considering the notification and the light procedure as a single type of simplified procedure, the dominant approach among the countries is the combination of exemption, simplified procedure and standard procedure.

Regarding the exemptions, they are present in all countries, for example in Finland there is the so-called "Basic building right" which associates the property right of a land with the development right with limitations, for example on the density of the settlement; with this right, the case of Finland seems to be exceptional in Europe as Denmark and Sweden eliminated this right respectively in 1970 and 1973. Other examples are Bulgaria, where the owner has the right to build without having obtained a permit in the case of minor buildings that follow rules and requirements specified by the cantons or local authorities; Hungary is entitled if the area is less than 300 square meters, while the Netherlands are entitled to structures located in the gardens behind existing buildings.

In order to build on their own land, excluding exceptions such as those above, the owner must apply for a building permit; thus assuming this necessity, the owner does not hold the development right that instead belongs to the Public Authority who grants the permit.

Country	Exemptions	Building Notice	Light Procedure	Regular Procedure
Austria	x	x		x
Belgium	x			x
Bulgaria	x	x		x
Switzerland	<i>No data</i>			
Cyprus	x			x
Czech Republic	x	x		x
Germany	x		x	x
Denmark	x	x		x
Estonia	x	x	x	x
Greece	<i>No data</i>			
Spain	x		x	x
Finland	x	x	x	x
France	x	x		x
Croatia	<i>No data</i>			
Hungary	x			x
Ireland	x	x	x	x
Iceland	<i>No data</i>			
Italy	x	x		x
Liechtenstein	<i>No data</i>			
Lithuania	x		x	x
Luxembourg	x	x		x
Latvia	x	x	x	x
Malta	x	x		x
Netherlands	x		x	x
Norway	<i>No data</i>			
Poland	x	x		x
Portugal	x	x		x
Romania	x			x
Sweden	x	x		x
Slovenia	x	x		x
Slovakia	x	x	x	x
United Kingdom	x	x		x

Source: author's own elaboration based on Branco 2011

Table 3: Different control types in the analyzed countries

3.3 The building permit procedures

All European countries follow a basic procedure to request a building permit; the first step, even if voluntary, with the exception of Bulgaria, in which it is mandatory to request detailed planning information for certain types of work, is very frequent and is the so-called pre-consultation. In this phase you can contact the building authority to discuss the project and receive information on the requirements to be met by the designers; this information and opinions can be both binding and non-binding; the latter case in countries such as Austria, Denmark, France, Malta, the Netherlands and the United Kingdom.

Then we move on to the formal request, from the landowner or the developer, to the public authority; this step may require additional documents, such as in Greece the Building Approval, which certifies the compliance of the proposed construction with the regulations and technical requirements, in Latvia the environmental surveys and assessment and in Slovakia the Land-use decision. The Public Authority therefore has the task of verifying the compliance of the proposed project with the planning and regulatory system and this takes place, on average, within a period of 8 weeks.

As can be seen from Table 4 below, some countries do not define a time limit within which a decision on the permit should be issued, while others have two different durations, a shorter and a longer one.

The countries with the briefest period are Lithuania, the United Kingdom (for the shortest period) and Estonia (for the short term), while the countries with the most extensive duration are Portugal, Malta (for the longer duration) and Austria (for the longer duration).

Country	Time
Austria	8 / 24
Belgium	11
Bulgaria	6 / 11
Switzerland	<i>No data</i>
Cyprus	Not set
Czech Republic	4 / 8
Germany	8
Denmark	Not set
Estonia	3 / 6
Greece	<i>No data</i>
Spain	8
Finland	<i>No data</i>
France	8 / 12
Croatia	<i>No data</i>
Hungary	8
Ireland	12
Iceland	<i>No data</i>
Italy	10 / 18
Liechtenstein	<i>No data</i>
Lithuania	3
Luxembourg	Not set
Latvia	Not set
Malta	12 / 26
Netherlands	12
Norway	<i>No data</i>
Poland	9
Portugal	25 / 31
Romania	8
Sweden	Not set
Slovenia	8
Slovakia	Not set
United Kingdom	2 / 8

Source: author's own elaboration based on Branco 2011

Table 4: Timing of control procedures

Analyzing Map 3, it can be seen that countries without a fixed duration or with a short duration (between 2 and 6 weeks) are in the north and east of Europe; otherwise, countries with a longer duration (between 24 and 31 weeks) are more Mediterranean countries.

Furthermore, in countries such as the Czech Republic, France, Italy, Malta, Portugal and the United Kingdom, this period can be extended for exceptional situations.

At the end of the duration to issue the permit, if no extension was requested, the analysed countries behave in five different ways:

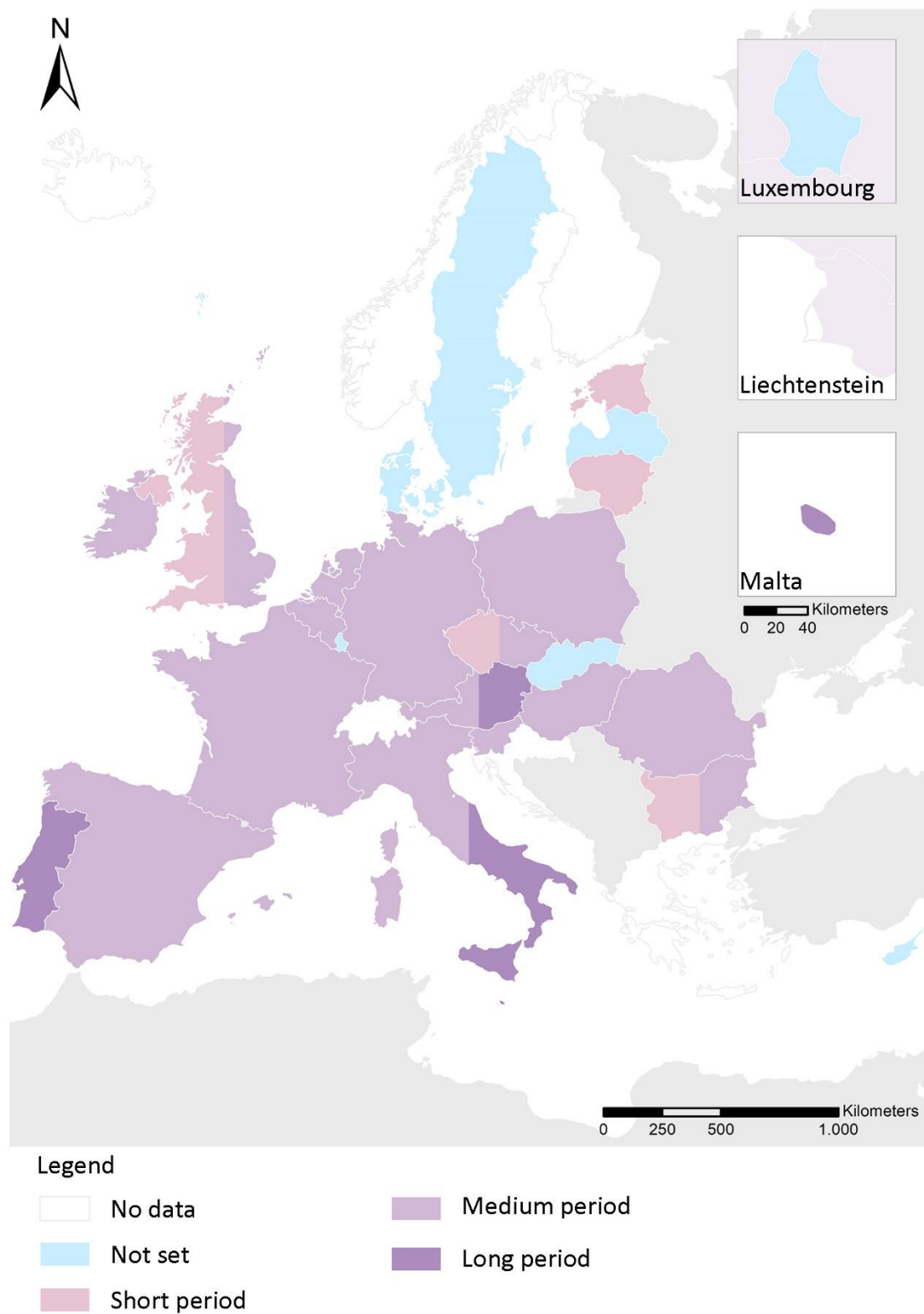
- The permit is issued in Germany, Lithuania, Romania, Spain;
- The permit is refused, in Belgium, Italy, United Kingdom;
- An appeal is presented to a higher authority, in Austria, Portugal, Slovenia;
- A decision is expected to be issued in the Czech Republic;
- A complaint is lodged in Ireland.

In recent decades, in some countries³ the time frames for issuing building permits have been shortened; however, in the future, countries such as the Czech Republic and Lithuania may decide to extend this duration again due to the complexity found in the procedure. (Branco, 2011)

In all the countries analysed, the works can begin after the issuance of the building permit, however there are exceptions; for example, in Bulgaria and Denmark they can start before the issue of the permit if a partial permit or special authorization has been obtained, in Italy, Latvia and Portugal the demolition and excavation works can be started, and finally in Finland it's ok to proceed with the piling of the foundations, but not with the concrete casting.

Finally, the procedure for building permits is electronic and therefore on-line in countries such as Denmark, Malta, the Netherlands, Portugal and the United Kingdom.

³ Bulgaria, Czech Republic, France, Germany, Ireland, Lithuania, Portugal and Slovenia.



Source: author's own elaboration based on Branco 2011

Figure 3: Time duration for granting a building permit

4. Administrative levels and planning instruments

In this chapter different administrative levels with their relative competences on territorial governance and planning instruments will be analysed. A classification will be proposed, on the basis of the administrative levels that are present and the related tools, highlighting their functions and their characteristics.

4.1 Multi-level approach

The territorial governance is usually defined as multi-level because, normally, planning skills are divided or shared among the various administrative authorities such as, for example, the State, the Regions and the Local authorities. However, the European framework is not homogeneous, different models of governance can be identified, based on the number of the administrative levels present.

The first model, is the one in which countries with only two levels of territorial governance are recognized, namely Denmark, Liechtenstein, Luxembourg, Slovenia and Malta. All these countries, therefore, present a national and a local level; however, the case of Malta is particular, since the local plans exist, but they are drafted and approved at the national level.

The second model, includes those countries that have two strong and consolidated levels and a third weaker or not properly functioning level of territorial governance; this is the case of Austria, Belgium, Cyprus, Estonia, Iceland, Lithuania and the United Kingdom. Within this model it is possible to identify further classification, based on the levels; for example, the two strong levels are the sub-national 1 (i.e. the first level of territorial governance hierarchically submitted to the national level, and it can be for example the regional one) and the local, to which the

third level is added, which remains weaker, of national type for Austria and of sub-national 2 level (i.e. the second level of territorial governance hierarchically submitted to the national level, immediately below the sub-national level 1, and it can be for example the provincial one) in the other cases. Otherwise, for Cyprus, Estonia, Iceland and Lithuania the two strong levels are the national and the local, to which the sub-national 2 is added.

The third model has three planning levels, and is the most common: Switzerland, Czech Republic, Finland, France, Croatia, Ireland, Latvia, Netherland, Poland and Slovakia. For all of these countries, the three levels are national, sub-national 1 and local.

The fourth model is represented by countries with three main levels and a fourth that is weak or not properly working, like in cases of Bulgaria, Greece and Hungary. A distinction is identified in this model, i.e. for Greece and Hungary the three strong levels are national, sub-national 2 and local, to which the weaker sub-national 1 is added; while for Bulgaria the strong levels are national, sub-national 1 and local, to which a weak sub-national 2 level is added.

The last model, the fifth, has four administrative levels, and is the case of Germany, Italy, Norway and Portugal. Obviously, the levels are national, sub-national 1, sub-national 2 and local.

In the end, there are three countries that do not fit into these models because they have may particularities. This is the case of Spain, Sweden and Romania. Spain and Sweden have a single consolidated and functioning level, the local one, while the other three for Spain are not mandatory, and for Sweden the national level has the sole task of identifying areas of national interest, the sub-national level 1 concerns only the Stockholm area and the sub-national 2 does not present planning tools.

Romania, on the other hand, has two well-established and functioning levels, the national and the local; the two intermediate levels, on the other hand, are not mandatory.

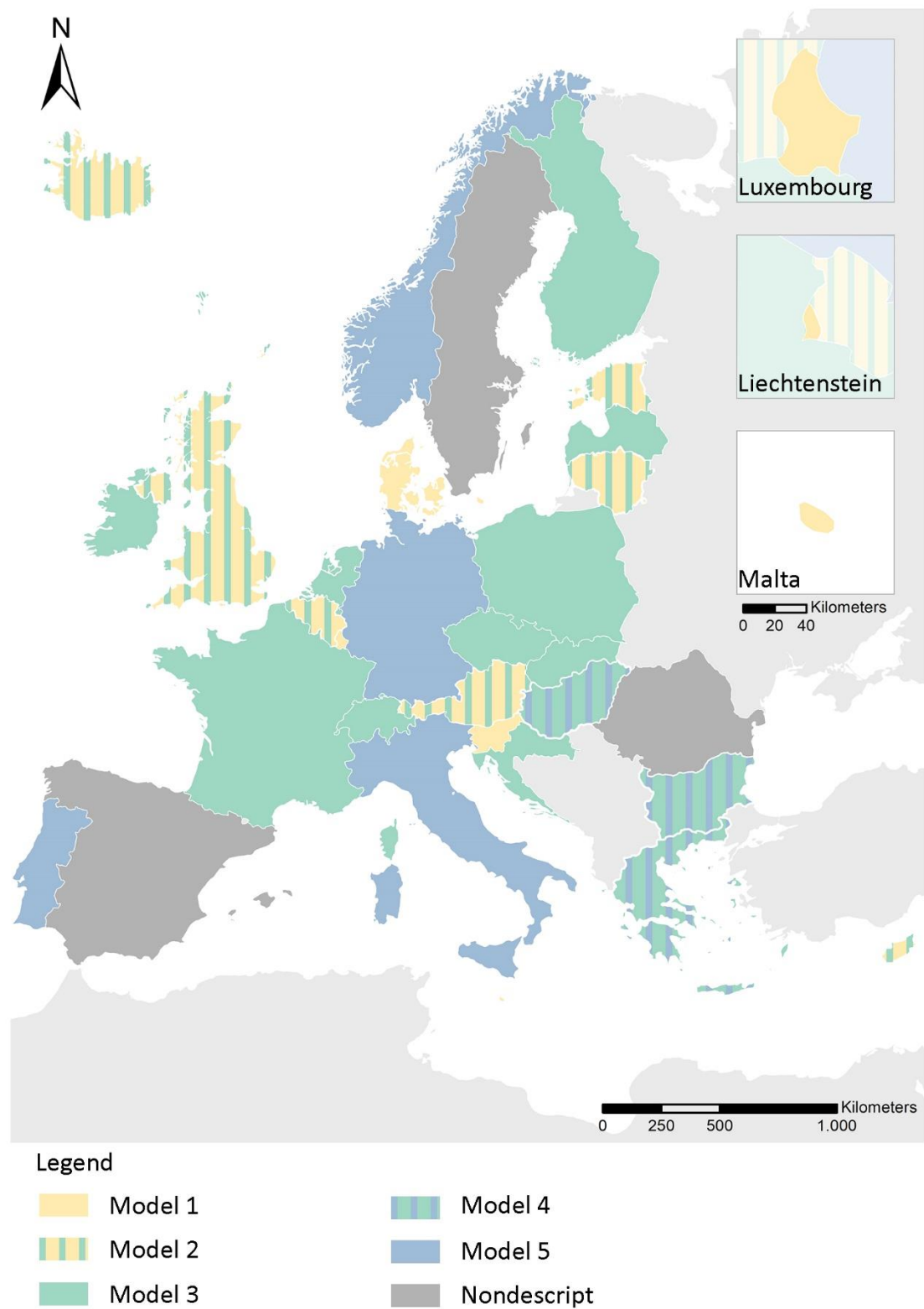
Country	National	Sub-national 1	Sub-national 2	Local
Austria	✓	✓		✓
Belgium		✓	✓	✓
Bulgaria	✓	✓	✓	✓
Switzerland	✓	✓		✓
Cyprus	✓	✓		✓
Czech Republic	✓		✓	✓
Germany	✓	✓	✓	✓
Denmark	✓			✓
Estonia	✓	✓		✓
Greece	✓	✓	✓	✓
Spain	✓	✓	✓	✓
Finland	✓	✓		✓
France	✓	✓		✓
Croatia	✓	✓		✓
Hungary	✓	✓	✓	✓
Ireland	✓	✓		✓
Iceland	✓	✓		✓
Italy	✓	✓	✓	✓
Liechtenstein	✓			✓
Lithuania	✓	✓		✓
Luxembourg	✓			✓
Latvia	✓	✓		✓
Malta	✓			✓
Netherlands	✓	✓		✓
Norway	✓	✓	✓	✓
Poland	✓	✓		✓
Portugal	✓	✓	✓	✓
Romania	✓	✓	✓	✓
Sweden	✓	✓	✓	✓
Slovenia	✓			✓
Slovakia	✓	✓		✓
United Kingdom		✓	✓	✓

Legend

- ✓ Strong level
- ✓ Weak level

Source: author's own elaboration based on ESPON 2017

Table 5: Administrative levels of territorial governance



Source: author's own elaboration based on ESPON 2017

Figure 4: The five models based on administrative levels

4.2 National Level

According to the COMPASS survey, the National level of territorial governance is thus present in all the analysed countries, with the exception of Belgium and United Kingdom. The competent planning authorities at this level are mainly Ministries, like the one for Environment, Transportation, Energy, Regional Development and so on.

Some countries, however, have also other authorities in addition to Ministries, that can both collaborate with them and work independently in order to make plans, supervise and/or co-ordinate inferior levels. For example, some agencies exist that deal with co-ordination, like the Austria Conference on Spatial Planning (ÖROK, Österreichische Raumordnungskonferenz), an organization that has no formal competence in spatial planning, but serves as a platform for co-ordinate spatial development at a national level, or like the Federal Office for Spatial Planning in Switzerland, or the Croatian Institute for Spatial Development, or more, the Intersectoral Coordination centre in Latvia.

Other agencies instead supervise the operation of the national level, or they guarantee that the regional level is in line with the national one; examples are the Centres for Economic Development, Transport and the Economy in Finland, the Department of Housing, Planning Community and Local Government in Ireland and the Directorate General of Territory in Portugal.

Some agencies also develop objectives and guidelines for the country, like the Federal Spatial Planning Authority in Germany and the Federal Department of Environment, Transport, Energy and Communication in Switzerland.

Lastly, there are groups that support other agencies in their work, like the Expert Councils in Bulgaria, the High Council of Territorial Planning in Luxembourg and the Expert Agencies in Norway.

All those agencies, have thus the task to draft planning instruments at the national level. Generally, these tools are strategic and visionary, as they dictate guidelines for the country, general development objectives to be achieved and the vision to be pursued. Examples are the National Concept for Spatial Development in

























































Bulgaria, the National Planning Strategy in Greece and Iceland, the National Development and Territorial Development Concept in Hungary, the Strategic Plan for the Environment and Development in Malta and the Slovak Spatial Development Perspective. Nevertheless, in some countries, these instruments are not statutory, like the Austrian Spatial Development Concept (ÖREK) in Austria, the Territorial Concept in Switzerland, the Concepts and Strategy for Spatial Development in Germany, the National Spatial Plan in Estonia and the National Spatial Strategy in Ireland. Some countries have more than one instrument of this type, like Czech Republic, France, Croatia, Lithuania, Luxembourg, Latvia, Netherlands, Romania and Slovenia. Particular are the cases of Finland, with the National land use guidelines, and Liechtenstein, with the Structure Plan, that also have regulatory characteristics. Differently, in some countries there are also instruments that are only regulative; it's the case of the National land use Plan in Hungary, the National imposed land use plan in Netherlands and the General town planning regulation in Romania.

A lot of the analyses countries⁴ have also sectoral instruments, addressed on specific issues such as transport, environment, coastal and marinas areas. Thus, in some countries there are some peculiarities, for example: in Germany the Sectoral and Non-area-wide National Spatial Plans are currently missing; in Denmark there is the National Planning Directives for specific activities; in Greece there are four Special Spatial Planning Framework for renewable energy resources, industry, tourism and aquacultures; in Spain and in Malta they're not statutory; in Italy the General Plan for Transport and Logistics is the only national plan that is actually working, since the other sectoral plans are not statutory; in Luxembourg, the Integrated Transport and Spatial Planning Development Concept is not statutory, the Partial Land Use Plan "Flooding and Retention areas" is regulative for the land use in risk areas and the other sectoral plans are currently suspended; in Netherlands there is a very important National Water Plan; and Portugal that has Sectoral Programmes






⁴ Switzerland, Germany, Denmark, Greece, Spain, France, Croatia, Ireland, Italy, Lithuania, Luxembourg, Latvia, Malta, Netherlands and Portugal.

for transport, communications, health, culture and environment, and Special Programmes for water and coastal management.

Finally, there are some plans which identify and regulate projects with national importance or impact, like in Estonia the National Designated Spatial Plan and in Sweden the Areas of National Interest that identify works with significant impact, in Slovenia the National Spatial Plan that plans national important matters and is the base for the project; finally, Luxembourg with the Land use Plans and Norway with the Government Land use Plan, that are regulative and they are used to implement projects of national interest.

Country	National level
Austria	 n.s.
Belgium	
Bulgaria	
Switzerland	 n.s. 
Cyprus	 n.s. ^a 
Czech Republic	
Germany	 n.s.  b
Denmark	 
Estonia	 n.s. 
Greece	 
Spain	 n.s.
Finland	 
France	 
Croatia	 
Hungary	 
Ireland	 n.s. 
Iceland	
Italy	 c 
Liechtenstein	 
Lithuania	 
Luxembourg	 n.s.  d  
Latvia	 
Malta	 n.s. 
Netherlands	  
Norway	  
Poland	
Portugal	 
Romania	 
Sweden	
Slovenia	 
Slovakia	
United Kingdom	

Legend

-  Strategic
-  Sectoral
-  Regulatory
-  Identifies important or impact projects
-  Not fully working
- n.s. Non statutory

- a - The Island Plan is currently inactive, but not abolished; there is a willing to make it come back
- b - The sectoral plans are currently missing
- c - The strategic general plan is missing
- d - Some sectoral plans are statutory, but currently suspended

Source: author's own elaboration based on ESPON 2017

Table 6: National level's instruments

4.3 Sub-national level 1

The Sub-national level 1, is present in all countries with the exception of Czech Republic, Denmark, where it was removed in 2007, Liechtenstein, Luxembourg, Lithuania, where it was removed in 2010, Malta and Slovenia. Typically, it can deal with both policies and decision, drafting and approving plans, but al with supervision and co-ordination of lower levels.

This level is called in several ways, the most frequent is the regional level⁵, then the county level⁶ and also the province level⁷. However there are unique cases: they are called Cantons in Switzerland, Districts in Cyprus, Federal States in Germany, Decentralized Administrations in Greece, Autonomous Communities in Spain, Voivodeship in Poland, while in the United Kingdom there are the Agencies of government , the Department of communities and local government in England and the Devolved Administrations in North Ireland, Scotland and Wales.

There are several particularities: for example, in some cases there is the level, but it does not have planning tools; in Hungary the instruments were abolished in 2011, in Bulgaria have not yet been made, differently, in Cyprus and in Greece, this level has other competences, relatively it supervises the implementation of national policies, and carries out environmental assessments, gives licenses and approves the lower level plans. Differently, in Sweden, there is a plan only for the city of Stockholm, out of this exception, the level has the job of supervise the municipal level. As for Estonia, the level is losing power and is not considered functional anymore, while in Lithuania the level is no longer present, but the instruments, the Comprehensive plan of the County, are not compulsory but still in force.

In the other countries, there can be different type of plans, for example, the visionary and strategic plan in frequent; those are the Regional Spatial Development

⁵ Belgium, Bulgaria, Finland, France, Hungary, Ireland, Iceland, Italy, Latvia, Portugal, Romania and Slovakia.

⁶ Estonia, Croatia, Norway and Sweden.

⁷ Austria and Netherland.

Scheme in Bulgaria, the Cantonal Structure plan in Switzerland, the State Development Plan in Germany, the Regional Scheme for Spatial Planning, Sustainable Development and Equality of Territories in France, the County Development Strategy in Croatia, the Regional Planning Guidelines in Ireland, the Regional Spatial Plan in Italy, the Sustainable Development Strategy of a Planning Region and the Planning Region Development Programmes in Latvia, the Structure Vision in Netherland, the Regional Planning Strategy in Norway, the Voivodeship Development Strategy and the Voivodeship Spatial Management Plan in Poland, the Regional Spatial Policy Programmes in Portugal while in the United Kingdom, there is the National Policy in England, the Regional Development Strategy and the Strategic Planning Policy Statement in North Ireland, the National Planning Framework in Scotland and the finally the Wales Spatial Plan and the Planning Policy of Wales.

In Austria, there are the Development Programmes of the Austrian Provinces and the Regional Development Programmes that can have also a regulatory feature, while in Iceland and in Sweden, the plan refers only to the area of the capital city, i.e. relatively the Regional Plan and the Regional Development Plan.








































There are also other countries which have a visionary and strategic plan, but it is not statutory; is the case of Belgium with the Spatial Structure Plan in the Flemish region, the Regional Development Plan for the Brussel-Capital region and the Regional Spatial Development Plan for the Walloon region, the case of Estonia, with the County-wide Spatial Plan, even if it's not known which authority will be in charge of it, the case of Spain with the General Territorial Plan, the case of Romania with the Zonal Spatial Development Plan of the Region and the case of Iceland with the Regional Plan.

At this administrative level, there are also some sectoral plans, like in Italy with the Regional Landscape Plan and the Hydro geological Plan, in the Netherland with the Provincial Waterplan, in Poland with the Voivodeship Programmes and Sectoral Policies; furthermore, in Austria, there are Sectoral Programmes that can have a regulative feature, in Spain there are the Coast Territorial Plan, the Sustainable Development Plan and other sectoral plans that are not statutory, in Finland the






Maritime Spatial Plan that is not statutory, in Iceland there is the Draft Transport Strategy for the Greater Dublin area, which is only for Dublin and is not statutory, and finally in Croatia there is the County Spatial Plan which also prescribe the requirements for the implementation of projects of county significance.

Just about the county significance's project, there are some plans with this exact aim, like in Belgium there are the Regional Land use Plan in the Flemish region, the Guideline Scheme and the Regional Land use Plan in the Brussel-Capital region and the Regional Land use Plan in the Walloon region which are regulative but specific for areas of regional interest, in Finland there is the Regional Land use Plan which defines areas of regional interest and also in Croatia there is the Urban Development Plan of County Significance.

Finally, there are also plans that are regulative, like in Belgium with the Regional Regulation in the Flemish region, the Regional Planning in the Brussel-Capital region and the Regional Planning Regulation in the Walloon region, in France there is the Ile de France Region's Masterplan, in Norway the Regional Masterplan, in Slovakia the Land use Plan of Region and in the United Kingdom, but only in England, there are Statutory Instruments with a regulative characteristic.

Country	Sub-national level 1
Austria	 
Belgium	     
Bulgaria	
Switzerland	
Cyprus	
Czech Republic	
Germany	
Denmark	
Estonia	 ^e
Greece	
Spain	 
Finland	 
France	
Croatia	
Hungary	
Ireland	 
Iceland	
Italy	 
Liechtenstein	
Lithuania	 ^f
Luxembourg	
Latvia	
Malta	
Netherlands	  
Norway	 
Poland	  
Portugal	
Romania	
Sweden	 ^g
Slovenia	
Slovakia	
United Kingdom	 

Legend

-  Strategic
-  Sectoral
-  Regulatory
-  Identifies important or impact projects
-  Not fully working
- n.s. Non statutory

- e - It's not sure which authority will take care of it
- f - Not compulsory at the moment, but still in force
- g - Only for Stockholm

Source: author's own elaboration based on ESPON 2017

















Table 7: Instruments at the sub-national level 1

4.4 Sub-national level 2

The Sub-national level 2 is present in Czech Republic, Germany, Greece, Spain, Hungary, Italy, Portugal and Romania, furthermore, with some particularities, also in Belgium, Bulgaria, Sweden and United Kingdom. Usually, it's called region, in Czech Republic, Germany and Greece, or county, in France, Hungary and Romania, or also Province, in Belgium, Spain and Italy; the latter also has a metropolitan authority. Instead, in Bulgaria they are called district, in Portugal they are inter-municipal and metropolitan authorities, in Sweden are the Local authority association while in the United Kingdom is the Greater London Authority.

Also this level has mainly a strategic and visionary feature, so in the most of those countries the plan has only this feature, for example the Development Strategy for the territory of a Region in Czech Republic, the Regional Development Plan in Germany, the Regional Spatial Planning Framework in Greece, the County Development Concept and the County Development Programme in Hungary, the Provincial Coordination Spatial Plan, the General Territorial Metropolitan Plan and the Strategic Metropolitan Plan in Italy, the Inter-municipal Spatial Policy Programmes in Portugal and the County Spatial Development Plan in Romania, even if this is not statutory. Furthermore, Hungary has a regulatory plan, the County Land use Plan, and Spain and Italy have a sectoral plan, respectively the Road Plan and the Park Plan and Regulation, the latter is also regulative; Czech Republic instead, also has Development Principles which are made for the individuation of corridors of supra local importance.

Belgium has a planning instrument at this level only in the cases of the Flemish region, with the Provincial Spatial Structure Plan, and the Walloon region, with the Inter-municipal Development Scheme, even if this is not clearly defined and only the province of Liege has made it; Bulgaria has Regional Spatial Development Schemes, but at 2016 non was made and also Sweden has not made any plan; finally, the United Kingdom has the Mayor's Spatial Development Strategy, but only for the city of London.

Country	Sub-national level 2
Austria	
Belgium	  h
Bulgaria	 i
Switzerland	
Cyprus	
Czech Republic	
Germany	
Denmark	
Estonia	
Greece	
Spain	 n.s.
Finland	
France	
Croatia	
Hungary	 
Ireland	
Iceland	
Italy	 
Liechtenstein	
Lithuania	
Luxembourg	
Latvia	
Malta	
Netherlands	
Norway	
Poland	
Portugal	
Romania	 n.s.
Sweden	 j
Slovenia	
Slovakia	
United Kingdom	

Legend

-  Strategic
-  Sectoral
-  Regulatory
-  Not fully working
- n.s. Non statutory

h - Only for the province of Liege

i - At the end of 2016, there were still no plans

j - Does not present planning instruments

Source: author's own elaboration based on ESPON 2017

Table 8: Instruments at the sub-national level 2

5. The Local Plan

This chapter focuses on the local plan, i.e. the land use plan, which is present in all countries. It begins by briefly extending the analysis to the other local plans, thus highlighting the attributes of the land use plan and looking for any missing feature of it in the other local level tools. Hence, it goes to distinguish any cases in which the land use plan presents all the characteristics necessary at the local level and cases in which these attributes are divided among various local instruments. Then the land use plan is examined, its training procedure, underlying particularly the phases of drafting, approval and the participation of citizens in the process.

5.1 The local plan in relation to other local instruments

The plan associated with the development right and with the building permit is the Land Use Plan, it is a local plan and is present in all the countries analysed. A common feature of this instrument is that it is legally binding, with the exception of Ireland and United Kingdom, and of a regulatory nature. In eleven of the countries analysed⁸, this presents not only regulatory, but also strategic characteristics.

With the exception of Malta, where the land use plan results to be the only instrument of local level, in the remaining countries local planning consists of different instruments, which may be strategic, regulative, or both.

Three categories can be distinguished:

⁸ Bulgaria, Cyprus, Czech Republic, Finland, France, Ireland, Iceland, Norway, Romania, Slovenia and United Kingdom.

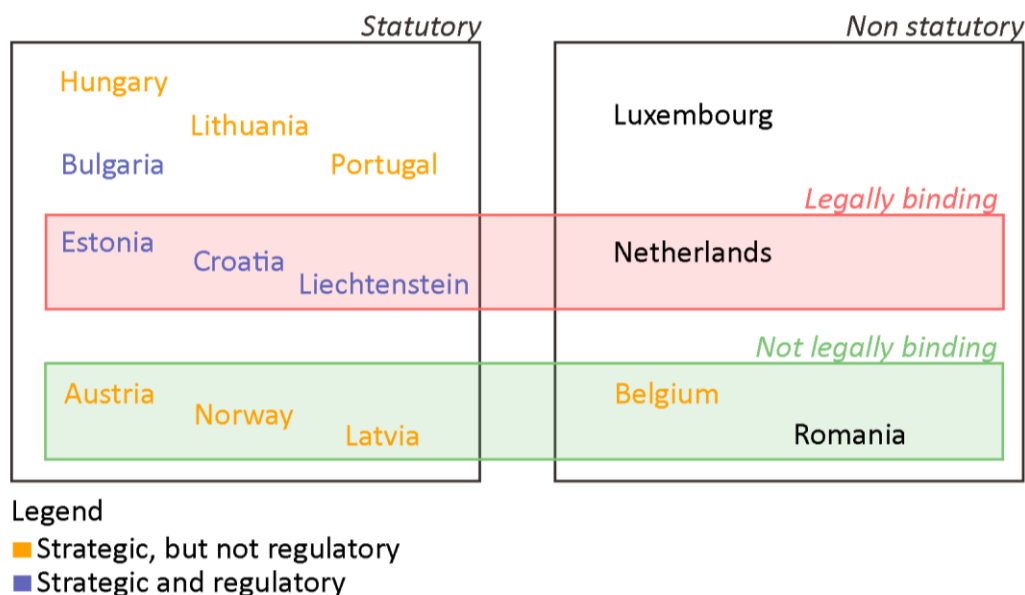
- Type A: countries presenting three kinds of instruments: strategic ones, classifiable as superior to the land use plan, the land use plan and specific or detailed instruments classifiable as inferior to the land use plan. These countries are: Austria, Belgium, Bulgaria, Estonia, Croatia, Hungary, Liechtenstein, Lithuania, Luxembourg, Latvia, Netherlands, Norway, Portugal and Romania.
- Type B: countries presenting two kinds of instruments: the land use plan and specific or detailed instruments definable as inferior. These countries are: Switzerland, Cyprus, Greece, Spain, Finland, Ireland, Iceland, Italy, Slovenia, Slovakia and United Kingdom.
- Type C: countries presenting two kinds of instruments: strategic ones and the land use plan. These countries are: Czech Republic, Germany, Denmark, France, Poland and Sweden.

Type A countries, hence present a strategic instruments, or two in the case of Liechtenstein; these tools has the characteristic to set long term goals of the territorial system, pointing out also means, instruments and actions for their achievement, thus going to define guidelines. These tools can be statutory, as in the case of ten of the analysed countries⁹, or non statutory, as in the case of Belgium, Luxembourg, Netherlands and Romania; besides, they can be legally binding, as for Estonia, Croatia, Liechtenstein and Netherlands, or not legally binding, as for Austria, Belgium, Latvia, Norway and Romania. Further element of distinction is there regulative feature, over than strategic, as for Bulgaria, Estonia, Croatia and Liechtenstein, or their purely strategic nature¹⁰. In these countries, strategic instruments which are non statutory do not present, generally, regulative features, but only strategic ones and guidelines, this happens for example in Belgium, otherwise, statutory tools can be both strategic and regulative, and therefore also legally binding, as in the case of Estonia, Croatia and Liechtenstein, or exclusively

⁹ Austria, Estonia, Croatia, Hungary, Liechtenstein, Lithuania, Latvia, Norway and Portugal.

¹⁰ Austria, Belgium, Bulgaria, Hungary, Lithuania, Latvia, Norway and Portugal.

strategic as for Hungary, Lithuania, Portugal, Austria, Norway and Latvia; in the last three countries named, also, the strategic instrument does not appear to be legally binding.



Source: author's own elaboration based on ESPON 2017

Figure 5: Characteristics of the strategic instruments of Type A countries

In all these countries, the land use plan is statutory and regulative; in some anyhow there are also strategic features, like in Bulgaria, Norway and Romania. Finally, the specific or detailed instruments are also statutory and regulative, but some they refer only to certain areas of the municipalities, as in the case of Liechtenstein, Estonia, Lithuania, Latvia ...

Thus, analysing the features of the strategic plans and the land use plans of these countries, the categories can be identified: the first¹¹, i.e. the countries where the strategic and the regulative issues are treated in two completely different instruments, and the second¹², i.e. those countries that have the regulative feature

¹¹ Austria, Belgium, Hungary, Lithuania, Luxembourg, Latvia, Netherland and Portugal

¹² Estonia, Croatia and Liechtenstein

also in the strategic tools, and finally, the cases¹³ where the strategic matter is also in the land use instruments.














































































Type B countries, instead have a land use plan and specific or detailed instruments; they miss thus a more general document with a framework feature. In all the countries, with the exception of Spain, the land use plan is statutory, and is regulatory in all the countries except for Ireland and United Kingdom. Only in some countries, i.e. Switzerland, Greece, Spain, Italy and Slovakia, it's only regulative, while in the other six countries¹⁴ it also both a strategic and a regulative feature. With regard to specific or detailed instruments, they are mandatory in the case of Greece, Finland, Ireland, Iceland, Italy, Slovenia and the United Kingdom, and they are not mandatory in Spain and Slovakia. Also these instruments, in the cases of Ireland and the United Kingdom, are not binding. In most cases these instruments are regulatory, but in the case of Ireland and Iceland they also have strategic characteristics.

The last category, type C, presents a strategic tool and a land use plan. In this case, the strategic instruments are all mandatory, but they can be exclusively strategic (Poland and Sweden) or strategic and regulatory (Czech Republic, Germany, Denmark and France), moreover, with the exception of Denmark and Sweden, all these plans are binding. Also in the case of land use plans are all mandatory, and only in the Czech Republic and France are they both strategic and regulatory (therefore Germany, Denmark, Poland and Sweden are only regulatory). Furthermore, they are all binding, with the exception of one particularity, namely the case of Poland, whose land use plan does not always prove to be binding.

Poland and Sweden have therefore adopted a hierarchy of local instruments in which the strategic and regulatory characteristics are well divided into two separate instruments; otherwise in Germany and Denmark there is a strategic as well as a regulatory instrument and an exclusively regulatory one; lastly, the Czech Republic and France in which both instruments present both strategic and regulatory characteristics.

¹³ Bulgaria, Norway and Romania.

¹⁴ Cyprus, Finland, Ireland, Iceland, Slovenia and United Kingdom.

Country	Local level		
Austria			
Belgium			
Bulgaria			
Switzerland			
Cyprus			
Czech Republic			
Germany			
Denmark			
Estonia			
Greece			
Spain			
Finland			
France			
Croatia			
Hungary			
Ireland			
Iceland			
Italy			
Liechtenstein			
Lithuania			
Luxembourg			
Latvia			
Malta			
Netherlands			
Norway			
Poland			
Portugal			
Romania			
Sweden			
Slovenia			
Slovakia			
United Kingdom			

Legend

	Strategic		Regulative and strategic
	Regulative		Specific or detailed instruments
	Strategic and regulative	n.s.	Non statutory

Source: author's own elaboration based on ESPON 2017

Table 9: Local level's instruments

5.2 The plan making process

The land use plan is, hence, a local level instrument and, in most countries, it is precisely at this administrative level that is drafted, so it is the Municipality that deals with the making of the plan.

However, not all countries fall into this category, for example in Bulgaria the drafting of the plan is entrusted through public procurement, in Greece, in addition to the local level, it is possible that is the Minister of Environment and Energy to deal with it, in Cyprus the making process is normally entrusted to the Minister of the Interior or at the local level with prior authorization, in Croatia is the Physical Planning Institute of the Counties that deals with it, in Malta the Environment and Planning Authority, finally in Sweden can be the level local or the Urban Planning Agency.

The majority of these plans, has an in-house approval, that is at the same administrative level of the drafting; in most cases, seventeen¹⁵ to be precise, the in house approval happens at the local level, otherwise in Malta it happens at the national level; finally in the United Kingdom it happen at the local level, but in collaboration with ad independent inspector. In the cases of Croatia and Bulgaria, the plan is approved at a local level, but is drafted by another body. In conclusion, in the remaining ten countries¹⁶, the approval happens at a hierarchically superior administrative level.

The two phases above, the drafting and the approval of the plan, are yes fundamental, but there are not the only ones. The plan making process of all countries can be carried over to a standard procedure, with the following steps.

¹⁵ Czech Republic, Germany, Denmark, Estonia, Finland, France, Hungary, Ireland, Lithuania, Latvia, Norway, Poland, Portugal, Romania, Sweden, Slovenia and Slovakia.

¹⁶ Austria, Belgium, Switzerland, Cyprus, Greece, Spain, Iceland, Italy, Liechtenstein and Luxembourg

Before the drafting starts, there is an initial phase definable as preliminary study where the current situation is examined, the data are collected, the needs are evaluated and the goals of the new plan are defined.

Subsequently there is the draft, i.e. the preparation of the preliminary plan; in this phase the new plan proposals are born, which are not final, since there still the chance to edit them.

Following, the proposed plan, where the authority has chosen what to do and has defined a proposal; usually this is the most participating moment.

After the participation, which can consists of public hearings or collection of observations, the proposed plan is subject to potential changes, in order to make it more suitable for the requirements and needs of citizens.

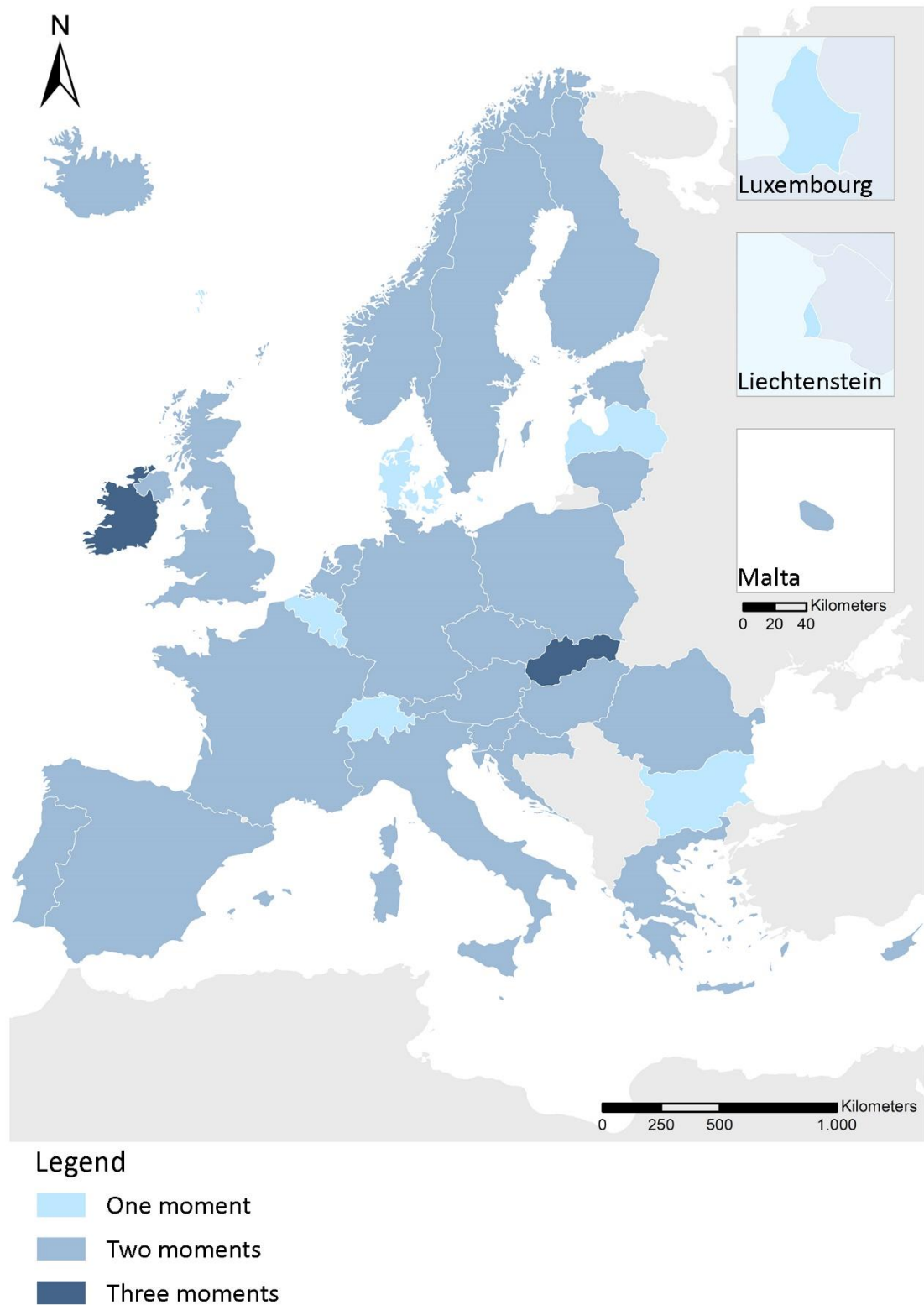
So, the final plan is drafted and then approved. The last stage is the monitoring.

5.3 Participation in the plan making process

The processes of each country, however, differ from each other for timing, but, above all, for the participation of citizens.

There can be one or more moments of participation; as it can be seen from Figure 6, the majority of the countries¹⁷ has two moments of participation, while Belgium, Bulgaria, Switzerland, Denmark, Liechtenstein, Luxembourg and Latvia have only one; in the end, only Ireland and Slovakia have three.

¹⁷ Austria, Cyprus, Czech Republic, Germany, Estonia, Greece, Spain, Finland, France, Croatia, Hungary, Iceland, Italy, Lithuania, Malta, Netherlands, Norway, Poland, Portugal, Romania, Sweden, Slovenia and United Kingdom.



Source: author's own elaboration on ESPON 2017

Figure 6: Quantity of participation moments

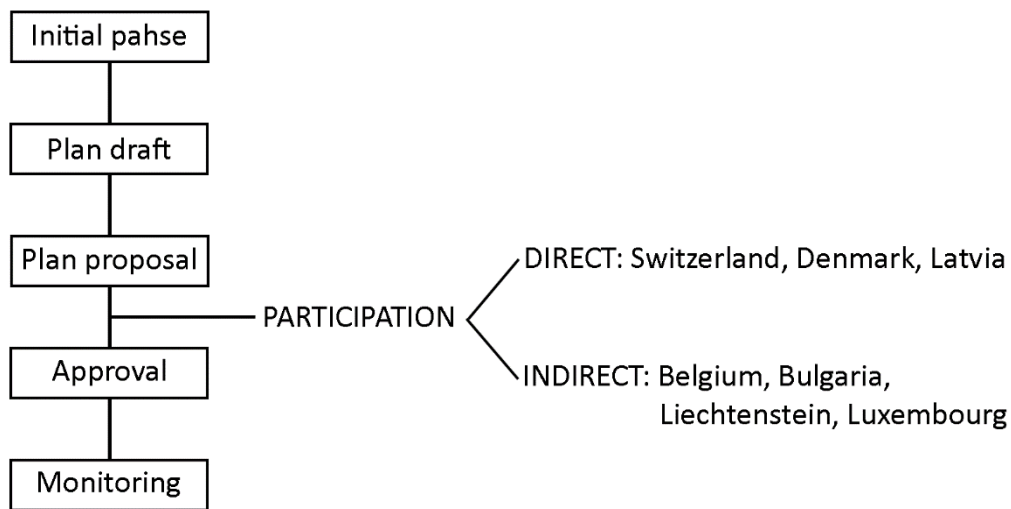
Public participation can also be of different typologies: direct participation and indirect participation.

Direct participation is composed by at least one moment where citizens and stakeholders can meet and discuss directly with the authorities; differently, indirect participation, does not have this active moment, but occurs with the publication of the proposed plan, on the internet or on the official journal, the notification and the collection of observations and objections from citizens and stakeholders. Besides, participation can happen in different stages of the plan making process.

It is precisely on these three elements, number of moments, position inside the process, and typology of participation, that four models emerge that can be referenced to represent all of the 32 countries.

In the figure 7 below, the first model is represented, showing the plan making process in Belgium, Bulgaria, Switzerland, Denmark, Liechtenstein, Luxembourg and Latvia.

In all of these cases, the participation occurs after the plan proposal of the authority. There is only one moment of participation and it's a direct one in Switzerland, Denmark and Latvia where there are public consultations, discussions and citizen engagement, and indirect in Belgium, Bulgaria, Liechtenstein and Luxembourg where the plan is published and observations are collected.



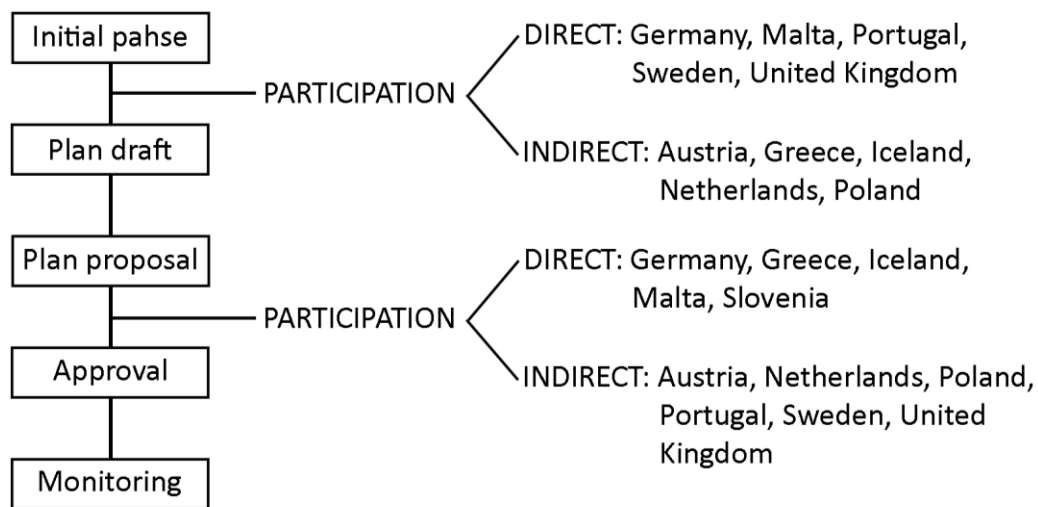
Source: author's own elaboratio based on ESPON 2017

Figure 7: Model 1, plan making process

In figure 8 below, the second model is delineated, illustrating those countries with two moments of participation, one in the initial phase of preliminary study and the other after the plan proposal. These countries are: Austria, Germany, Greece, Iceland, Malta, Netherlands, Poland, Portugal, Sweden, Slovenia and United Kingdom.

Germany and Malta are the only two countries that have both direct moments of participation, while Austria, Netherlands, Poland and Sweden have both indirect moments.

Other countries, like Portugal, Sweden and United Kingdom, choose to have a first moment of a direct type, to have an active discussion with the citizens, and a second moment of an indirect type, just to collect observations. Differently, Greece and Iceland, choose to have first ad indirect moment, following a public consultation.

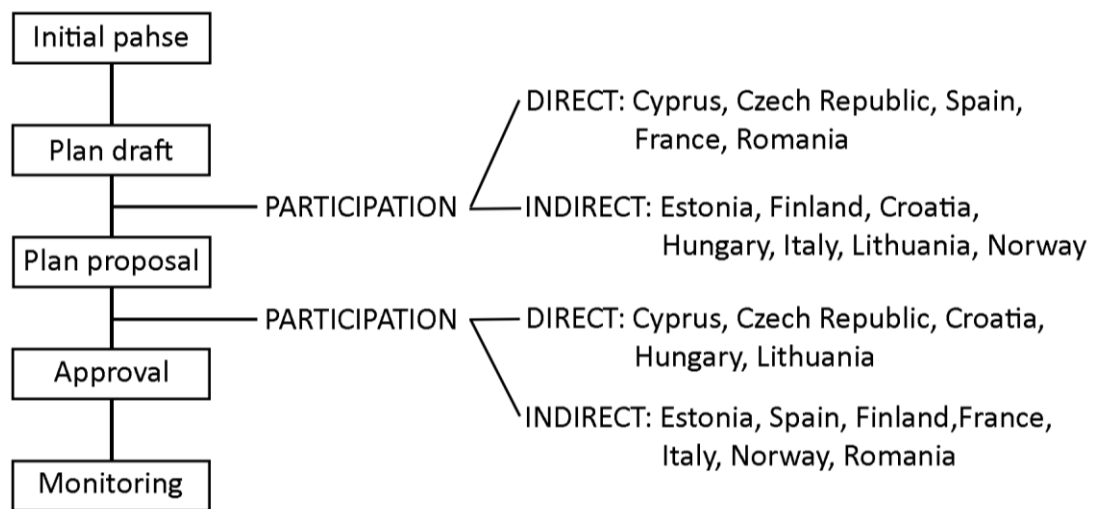


Source: author's own elaboratio based on ESPON 2017

Figure 8: Model 2, plan making process

Also in the third model, shown in the figure 9 below, there are two moments of participation, but the firs, instead of happening during the preliminary initial phase, occurs during the drawing of the plan draft. Also in this model, there are cases where both participatory moments are of a direct typology, like in Cyprus, and cases where both are indirect, like in Estonia, Finland, Italy and Norway.

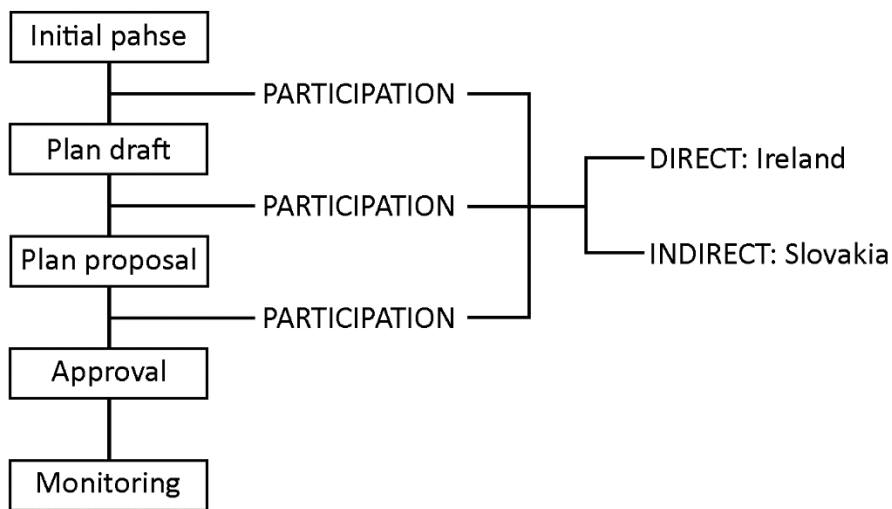
Different are the cases of Spain, France and Romania, which choose to have first a direct moment, and second ad indirect moment; while Croatia, Hungary and Lithuania have a first indirect moment and a second direct one.

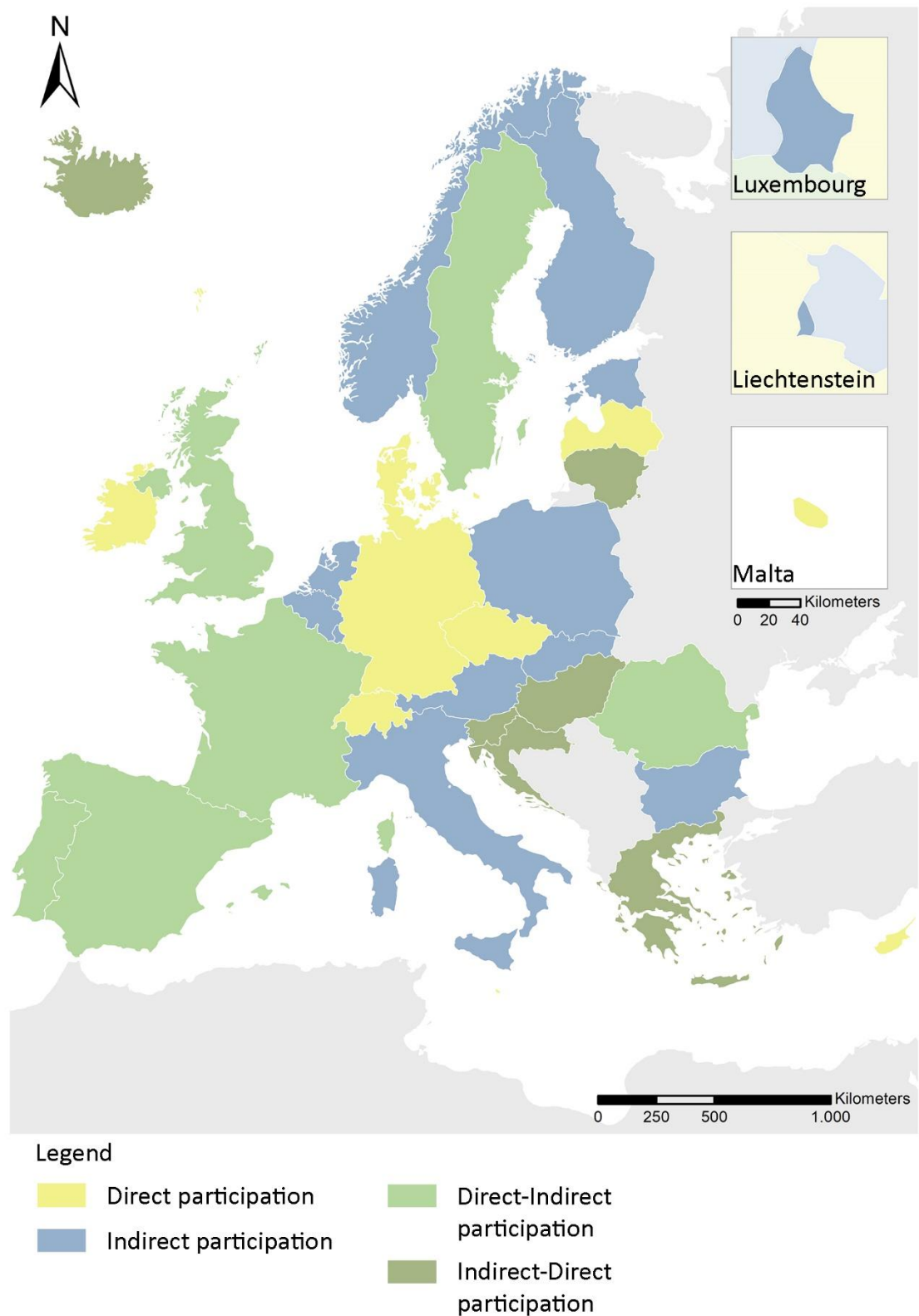


Source: author's own elaboratio based on ESPON 2017

Figure 9: Model 3, plan making process

The last model is the fourth, described in figure 10 below, and it propose three moments of participation, one in the initial preliminary phase, one during the first plan draft, and the last one after the plan proposal, before approval. In this model, two countries can be recognized, Ireland, which has all direct moments of participation, and Slovakia, which has all three indirect moments.





Source: author's own elaboration based on ESPON 2017

Figure 11: Typologies of participation

6. Synthesis of the survey

In this chapter the synthesis of the survey is concentrated, on the major findings that can be retrieved from a transversal reading of previous chapters. Here, similarities and differences between the various countries are investigated, trying to group the countries as much as possible, or trying to associate them with idealized models according to various attributes; spatial patterns will also be sought in order to determine possible factors causing similarities or differences. This chapter will focus on describing the changes that occurred in the last 20 years, thus the national trends.

6.1 Identification and rating of national trends

Having thus analysed the current situation of territorial governance and spatial planning systems and having seen both the EU Compendium (European Commission, 1997) and the previous research projects by ESPON (ESPON 2006, 2013, 2017), some national trends, related to the two last decades, towards which the countries are moving, have been identified:

- Transfer of powers and/or competences among the different hierarchical levels of the systems. Regarding this trend, an explanation is needed concerning the terms that have to be used since there are several terms that can look similar, if not even the same, however they feature some differences; first of all, a differentiation is needed on the base of the transfer typology, i.e. if there is a transfer of administrative powers or if the transfer is more of a functional type, afterword on the base of the direction of the

transfer, i.e. if it is of a bottom-up type, hence upwards, or of a top-down type, hence downwards.

In the case of the transfer of powers, if it is downwards then this phenomenon is called devolution, while if it is upwards is centralization of powers; in the case of a more functional type of transfer, it is described as decentralization or centralization. As a consequence of the phenomena described above, some terms exist which explain which hierarchical level is the receiver of the transfer; here therefore the terms used are nationalization, regionalization and localization.

- Implementation of new planning tools, it can concern both the classic levels of the system, and the new intermediate levels, as, for example, the supra-local level or the intermunicipal one.
- Implementation of sectoral legislation which influences spatial planning, typically for issues like environmental, transport, development, culture, housing...
- Changes in the planning procedure, usually it concerns the simplification of the procedure, that can happen through different elements like, for example, the efficiency improvement, the shortening of timing, the improvement of the transparency of the procedure, the modernization, the digitalization...
- Implementation of participation of citizens and stakeholders in the plan making process
- Improvement of integration, cooperation and coordination both among different hierarchical levels that among different sectors.

Once the national trends are defined, the analyses continues with the subsequent table, trying to identify the importance and the consistence of those trends in the analysed countries. Four categories are thus established: high, medium high, medium low and low; in order to gain such classification, the available data were used and, based on them, the following categorization was produced.

	HIGH	MEDIUM HIGH	MEDIUM LOW	LOW
1. Transfer of powers and/or competences downwards	DK EL FI NL	AT BE DE LV FR IT PT RO SK	BG NO ES HU LT SI CH UK PL	LI SE CZ IE
2. Transfer of powers and/or competences upwards	LI LU	DK EE FR IE	BE	AT HU NL
3. Implementation of new planning tools	AT NL LU HR CY	BE EL FR PL PT	IT LV MT SI	DK HU IS BG EE IE
4. Implementation of sectoral legislation	CZ	DK HR PL PT UK	AT DE MT NL	BE CH EL ES FI IE IC LV
5. Changes to the planning system procedure	DK NL NO	BE EL EE FR FI SI	AT HU LU LV SE HR CY CZ	BG IT SK CH DE IE MT PL RO UK PT
6. Implementation of participation	HU IE SK	CY CZ DE EE HR IT MT PL RO IS	AT FI NL NO SI ES FR LT PT UK	BE CH DK LU LV
7. Integration, cooperation and coordination	AT BG CH LU NL	CZ FI	HR NO UK	DE DK EE EL ES FR LT PL PT RO SE

Source: author's own elaboration, based on ESPON 2006, 2013, 2017

Table 10: Rating of national trends

Starting with the first trend, i.e. the transfer of powers and/or competences downwards, all the countries that have seen this phenomenon are reported in the following table. The classification in high, medium high, medium low and low has been made on the bases of quantities of available data. For example, the country of Netherland has been classified as high for this trend since it has been described multiple times, also in a detailed way, in previous research projects, and has also been strongly highlighted by the experts who filled the COMPASS questionnaires (ESPON 2017); in a different way, the countries classified as low are those who have this trend mentioned in previous research projects, but not in the last one, the COMPASS. At the same way it was reasoned for the second trend, the transfer of powers and/or competences upwards, where, for example, Liechtenstein and Luxembourg, who transferred many competences from the local level to the national level, have been classified as high, while countries like Austria are classified in the low level because was subdued only to a mild transfer of competences from municipalities to province authorities.

For the third trend, i.e. the implementation of new planning instruments, fundamental was the COMPASS research project, comparing it also to the EU Compendium. In this case, in order to place the different countries in the right class, it was considered the number of the planning instruments implemented in the last two decades, but also their significance: a national guidelines or spatial development policy plan result as more substantial than a sectoral plan. For this reason, for example, Croatia is classified as high since from 2007 two typologies of national plans, three plans of intermediate level and various local level plans were implemented; in the opposite way, Hungary has been classified as low since only one local level plan was implemented.

Moving forward to the implementation of the sectoral legislation, for this trend the COMPASS research project was primary and countries classified as high are the ones that present more sectors invested by new legislation, while the countries classified as low are the ones that have only one or two sectors invested by the implemented legislation. For example, Czech Republic is classified as high since laws

in more than twelve different sectors have been implemented, differently, Finland is classified as low since only one maritime planning legislation has been implemented.

For the changes in the planning system procedure, data have been sourced from the COMPASS and the ESPON 2.3.2 research projects. The changing mainly concerns the simplification of the procedure, that can be a consequence of the efficiency improvement, the unification of the building permits, the increase of the transparency, the improvement of flexibility, the digitalization and the shortness of timing. The division into classes is thus based on the level of detail provided by the experts in the COMPASS questionnaires and on how many of the components of simplification mentioned before have been achieved in the last two decades. Among the countries classified as high, there is, for example, Denmark that, in this period, was committed towards digitalization of the building permit, happened in 2016, to modernization of the procedure, the efficiency improvement and the increase of the flexibility of the system; among the countries classified as low, there is, instead, Bulgaria, that in the ESPON 2.3.2 research project presented a improvement of transparency trend, but in the COMPASS research project the experts haven't highlighted any trend.

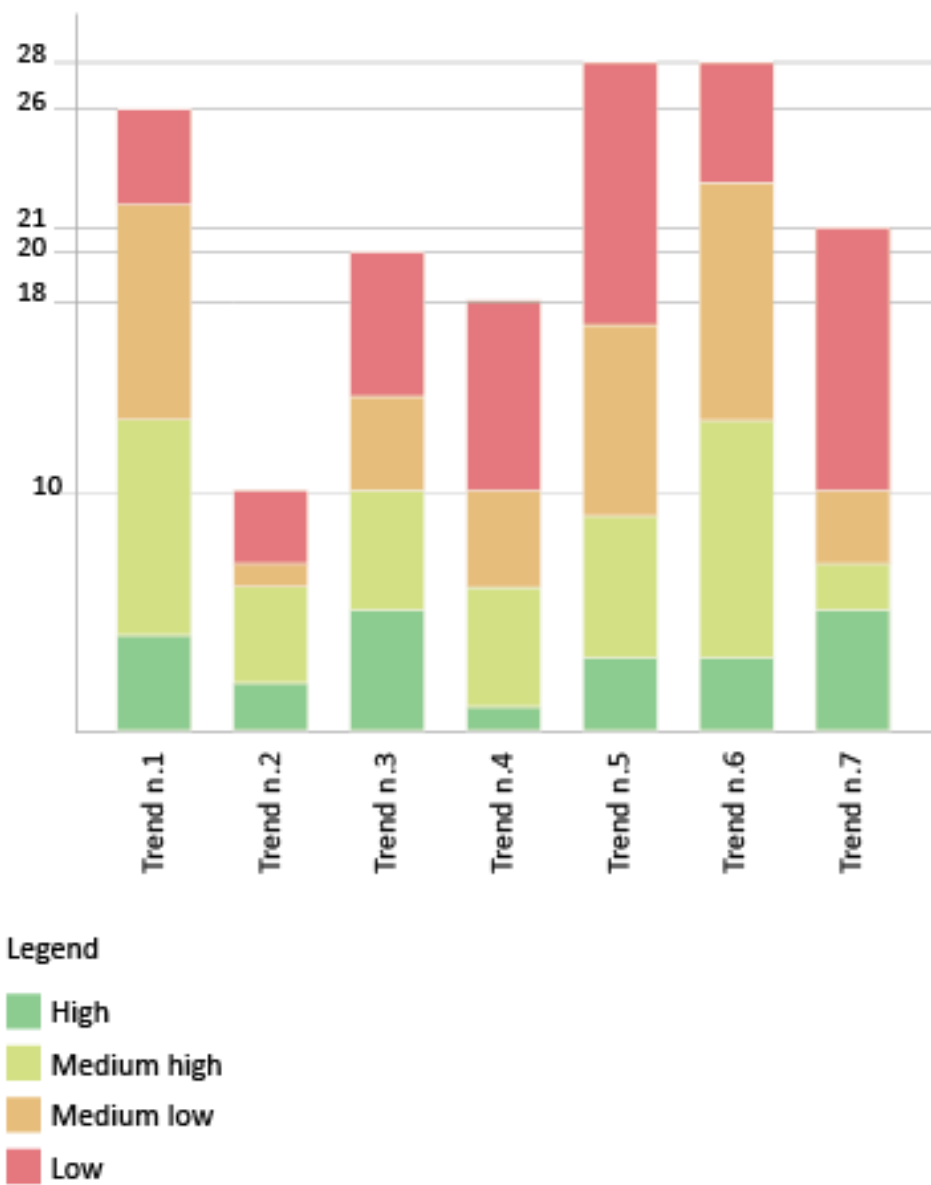
The sixth analysed trend is the improvement of citizens participation in the plan making process and, also in this case, the data used are from ESPON 2006 and 2017. For classification purposes, with this trend has been considered also the number of participatory moments at the current state and the typology, i.e. if is active or passive participation. In this way, by crossing all the data, it has come to a classification according to which, for example, Ireland is classified as high since the ESPON 2006 research project claimed that a process of participatory implementation was in place and because at the current state, Ireland has three moments of direct participation; differently, Belgium is classified as low since, in ESPON 2006 was claimed that had a trend of implementation of participation, but at the current state has only one indirect participatory moment.

Lastly, the seventh trend, the one regarding integration, cooperation and coordination phenomena that is based on ESPON 2006 and 2017; the countries

classified as high are those that present the trend both in ESPON 2006 and in ESPON 2017 and, in this last one, it is widely described and specified as in the case of Switzerland, differently the countries classified as low have the trend only in ESPON 2006, as, for example, Estonia.

Analysing the graph in figure 12 below, it can be seen that the two most frequent trends in European countries are trends number five and six, i.e. the changes in the procedure and the implementation of participation; following the trend on transfer of powers and/or competences upwards and the implementation of sectoral legislation. The least frequent trend is number two, i.e. the transfer of powers and/or competences downwards.

These trends were thus classified in high, medium high, medium low and low and, in the majority of cases the countries have been dislocated in an homogeneous way between the high and medium high section and the low and medium low section. However, there are three exceptions: trend number four, i.e. the implementation of sectoral legislation, where there is a majority of countries classified as low or medium low, trend number five, i.e. changes in the procedure, that is one of the most common trend, it has a strong majority of countries classified in the low or medium low; and the trend number seven, i.e. the integration, cooperation and coordination and also this one is one of the most frequent trends (the fourth) and has the majority of the countries classified in the low and medium low; this means that these two trends are yes common and spread in Europe, but they are not very strong and impactful how much can instead be the trend regarding the transfer of powers and/or competence upwards in the countries where is present.



Source: author's own elaboration

Figure 12: National trends

In the following sections, each of the seven trends introduced before will be described and commented.

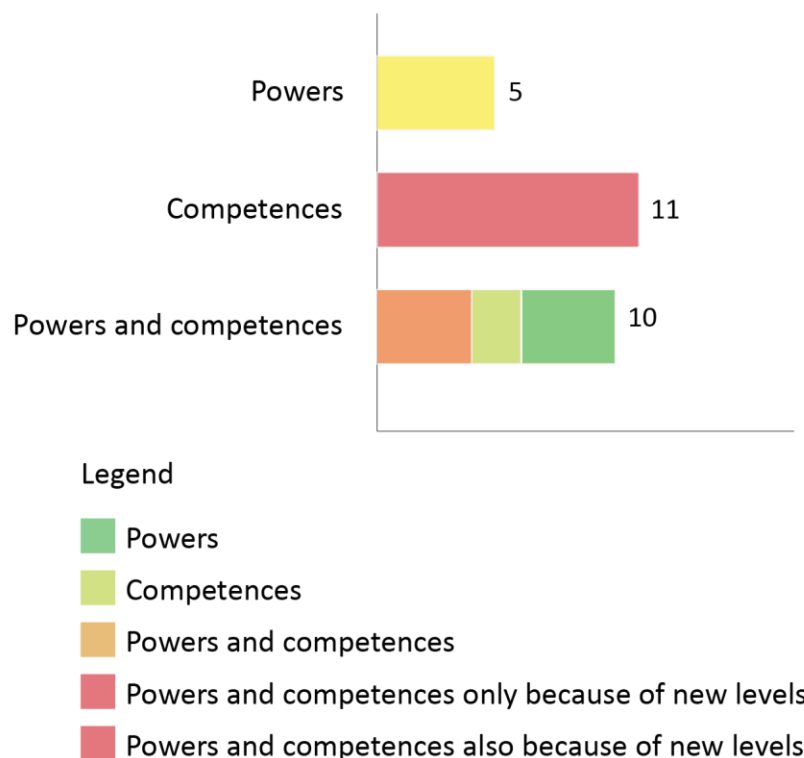
6.2 The main trends: transfer of powers and/or competences downwards and upwards

First, the trend concerning the transfer of powers and / or skills downward will be described and analysed because, as previously reported, is one of the most common in the European territory, and thus more common than the transfer upwards.

However, the distinctions explained above in section 6.1 are necessary: devolution, decentralization, centralization, nationalization, regionalization and localization.

Some countries are therefore invested by the transfer of skills from a hierarchically superior level to a lower level, others instead by a transfer of powers, always downwards, which leads to an increase in the autonomy of the lower level and to a reduction in control. Finally, in some cases, entire hierarchical levels are established or abolished, in the latter case, all the powers and competences belonging to it are delegated to the hierarchically subordinate level (see Figure 13 below).

Examples of the case involving intermediate levels are Denmark, where through the gradual abolition of regional planning authorities the powers and responsibilities have mostly been transferred to the local level (and to a minimum at the national level, see Section 6.3), Greece and Latvia where two new regional levels were set up, respectively in 2010 and 2002, Finland, where a new City-regional level was established, Portugal where a new intermunicipal level was established in the 2014 and Slovakia in 2001 with the new Self Government Regions.



Source: author's own elaboration based on ESPON 2006, 2013, 2017

Figure 13: Trasfer of powers and/or competences downwards

Regarding the transfer of powers between hierarchical levels, this can be done in favour of increasing the autonomy of the local level, as in the cases of Greece, Liechtenstein and Belgium, in the latter the regional authority of the Flanders loses its strong role as supervisor of the lower levels, or it can be done in favour of the autonomy of the intermediate level as happened in Sweden and in Italy. Moreover, always concerning the transfer of power, also in the Netherland this trend was present, to the detriment of the national and provincial level, losing in this way its task of supervisor, in favour of the local level.

Instead, for the transfer of competences, we are talking about a more functional transfer, towards the local level as in the cases of Latvia, Hungary, Ireland, Norway,

Lithuania, Slovenia and United Kingdom, or towards the regional level, as in Romania, or finally towards both, as in Switzerland and in Poland.

Moreover, in some countries there is a transfer of both competences and powers which does not, however, concern new intermediate levels; this is the case in Finland, where there is a transfer of power from the national to the regional level and the competences towards the local level.

There are also other cases that, unlike Finland, that transfer powers and responsibilities to the same level; it is the case of Spain that transfers to the regions, or Austria that transfers both to the regional and local level and the cases of France and the Czech Republic that transfer both to the regions and respectively to the municipal groups and to the municipalities with extended powers (see Figure 15).

Regarding instead the phenomenon of the transfer of powers and competences upwards, it is much less common in European countries than in the same trend but in the opposite direction. Being therefore less numerous, they turn out to be even more particular and less generalizable; they will therefore be described individually, in order of consistency of the trend.

Liechtenstein and Luxembourg seem to be similar, probably because they are a Principality and a small State; both have this trend of transfer from the local level to the national one.

Liechtenstein started in 2013 a process of reorganization ad national administration, acquiring competences that were previously entrusted to the local administration.

Also Luxembourg has thus viewed the same phenomenon from the local level to the national level, furthermore, with the introduction in 2003 of the Director Program of Spatial Planning (Programme Directeur d'Aménagement du Territoire, PDAT) the strategic decision making process was removed from the competences of the local administration, passing then to the national level.

Even Denmark has this phenomenon of transfer in favour of the national level, but this happened because of the abolishment of regional authorities; furthermore,

after the 2007 Finger Plan, the authority that dealt with it, that was the Greater Copenhagen Authority, was abolished and this competence passed into the hands of the Minister.

In Estonia, the centralization trend has fallen to the detriment of local authorities; moreover, in 2018 the counties were abolished, after a slow process of de-functionalization, however, being this a recent phenomenon, the new manager or new responsibilities for the competences of the old regions are not yet clear, among which the supervision of the local level is the fundamental one.

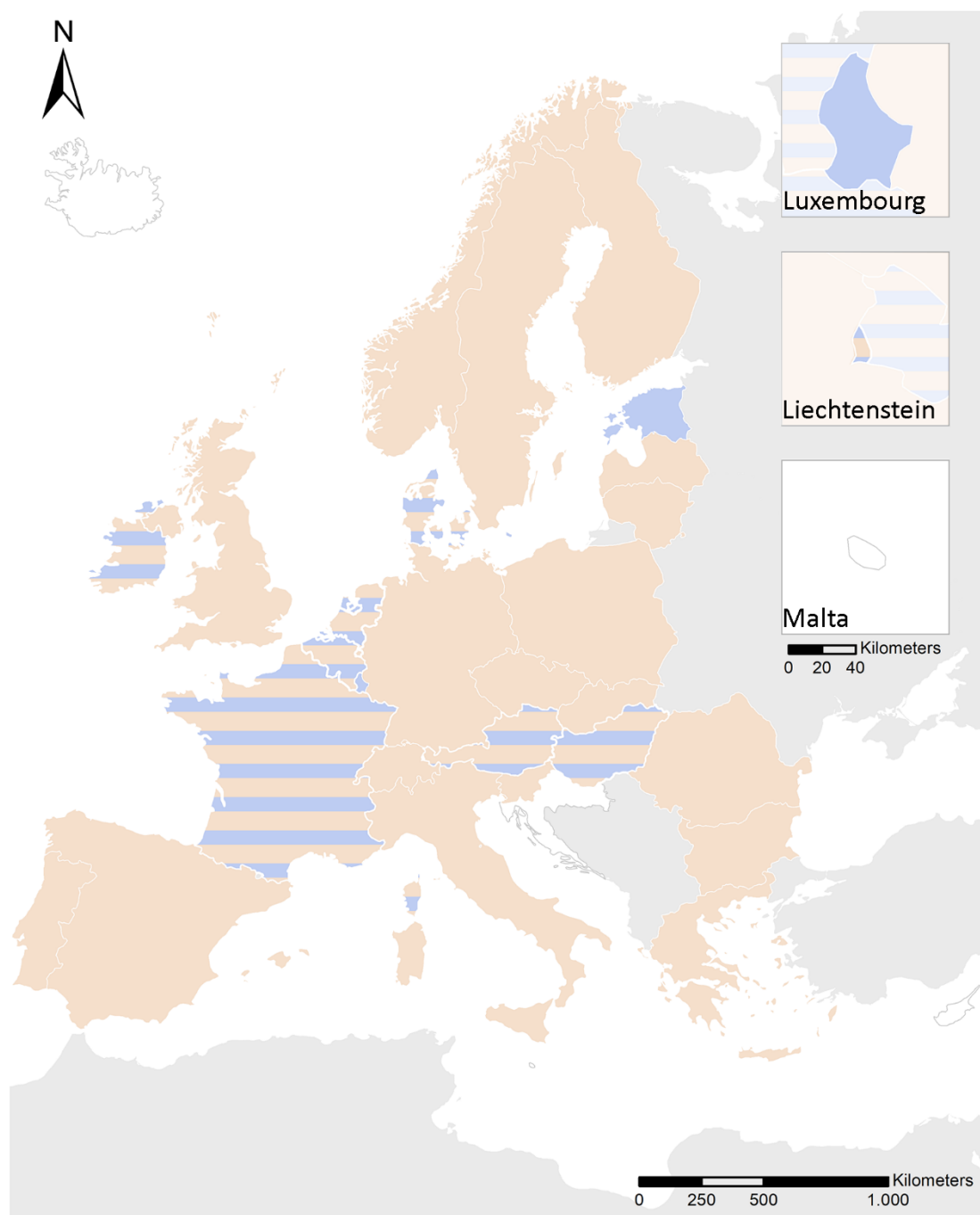
In France, this trend has caused a very complex system, with competences and powers that are spread across all levels, which has led to an overlap of powers and competences between the various levels. However, the national level acquires competences, some municipal competences are absorbed by the municipal groups and transport planning passes from counties to regions.

In Ireland, on the other hand, this trend mainly concerns sectoral legislation, as the competences on water and waste pass from the local to the national level.

Finally, in Belgium, or precisely, in the Wallonia region, the local level loses competences, in Hungary the national influence on the county authorities increases, in Austria there is a slight shift of competences from the municipalities towards the provincial authorities and finally, in the Netherlands, in 2008 the national and the provincial level acquire the competence to create the Imposed Land use Plans, to overrule the local Land use Plans.

In the following figure (Figure 14), the countries analysed are represented according to the type of transfer of powers and/or competences, i.e. if this turns out to be upwards or downwards.

Thanks to the map below it is clear that the downward transfer is much more frequent than the upward shift, but it is also noted that the latter is present on its own only in two countries, Luxembourg and Estonia; furthermore, the transfer upwards and downwards coexist in some central-northern European countries.



Legend

Only downwards

Both downwards and upwards

Only upwards

Countries where the trend is absent

Source: author's own elaboration based on ESPON 2006, 2013, 2017

Figure 14: Transfer of powers and/or competences downwards and upwards

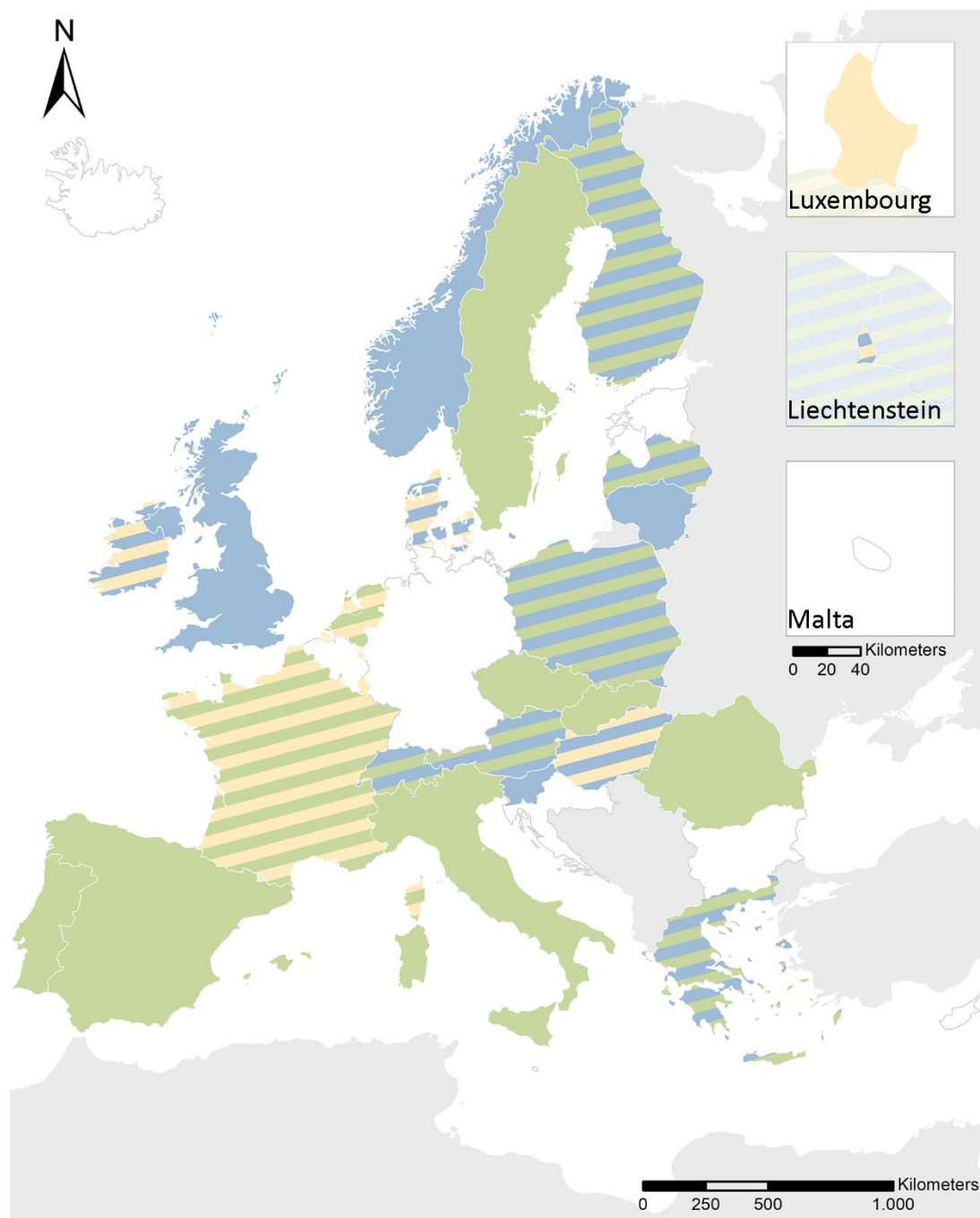
In the following figure, are shown the hierarchical levels that gained, through the transfer upwards or downwards, more powers and/or competences.

Estonia and Belgium are not shown in this figure because, in the first case the situation is not enough clear or defines, while, in the second, there are strong divergences between the three regions.

The level that, among the analysed countries, gained more powers and/or competences is the intermediate one; being thus the most frequent in European countries, does not show strong differences on the base of spatialization, but it can be seen how is slightly less present in north European countries. Following right after, there is the local level, dislocated mainly in north and east Europe countries, and in the end the national one, visible in Center European countries.

A good part of the countries has only one level that gained powers and/or competences as, for example, in Luxembourg the national level, in Portugal, Slovakia, Sweden, Italy, Romania, Spain and Czech Republic the intermediate ones, while Norway, Lithuania, Slovenia and United Kingdom the local level.

However, some countries gave powers and/or competences to more hierarchical levels; for example, countries like Greece, Latvia, Finland, Switzerland, Poland and Austria transferred their powers and/or competences to the intermediate and local levels, while Denmark, Liechtenstein, Hungary and Ireland to the national and local levels, finally, France and Netherlands to the national and intermediate levels.



Legend

- | | |
|---|--|
|  National level |  Intermediate and local levels |
|  Intermediate levels |  National and local levels |
|  Local levels |  National and intermediate levels |
|  Countries where the trend is absent | |

Source: author's own elaboration based on ESPON 2017

Figure 15: Levels that gained more powers and competences

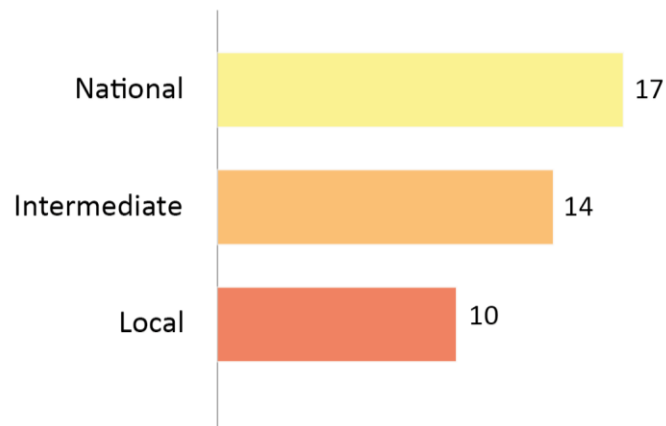
6.3 Secondary trends: implementation of new planning instruments, implementation of sectoral legislation and changes to the procedure

The third trend regards the implementation of new planning instruments happened in the last two decades. In this time of reference, a lot of the analyzed countries joined the European Union and, consequently, they had to adequate their own territorial governance and spatial planning system to european standard and requirements.

In 2004 a lot of countries thus joined the European Union, like Cyprus, Estonia, Croatia, Latvia, Lithuania, Malta, Poland, Czech Republic, Slovakia, Slovenia and Hungary; in 2007 instead only Bulgaria and Romania.

In the analysis of this trend, also intentional cases have been considered, i.e. also the previous intention to do, that are still not effective.

The graph shown in figure 14 below, display which hierarchical level has a bigger number of planning instruments implementation; this means that European countries have mainly implemented at the national level, following the intermediate levels and then the local level.



Source: author's own elaboration based on ESPON 2017

Figure 16: Levels with new planning instruments

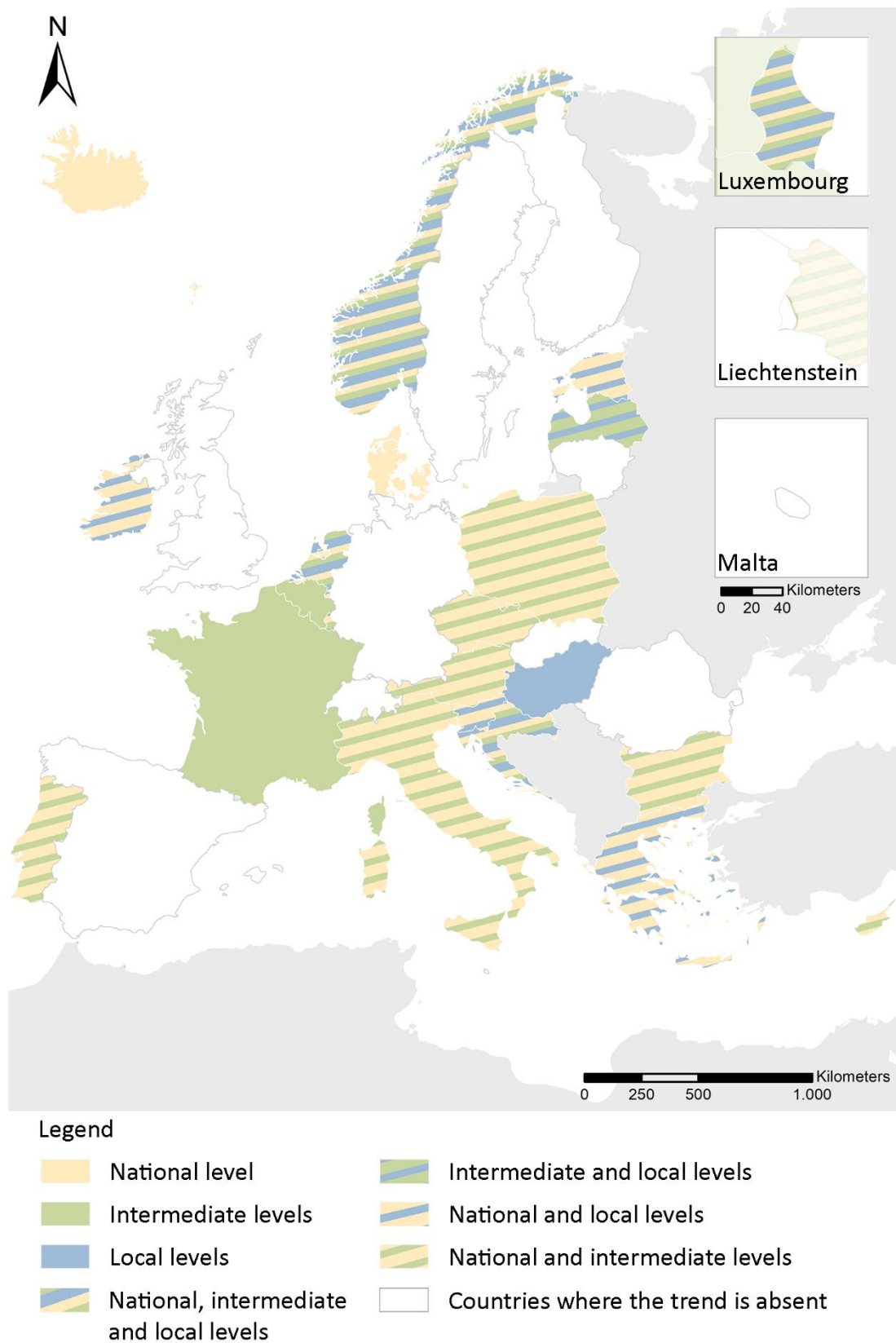
The map in the figure below, gives instead a spatial representation of the hierarchical levels that suffered the implementation of new instruments, for each analysed country.

About the national and international levels, there is no geographic pattern that can be seen, since both the national, that is the most spread across Europe, both the intermediate are present in all European areas. Differently, the local level seems to be subject to implementation mostly in Nordic and east-European countries; so it turns out to be absent in mode Mediterranean countries.

Most of the countries, anyway, did not limit itself to implement new instruments at a single hierarchical level, only Denmark, Iceland and Malta implemented only at the national level, while Belgium and France at the intermediate, and Hungary at the local level.

The remaining countries, thus, have implemented planning instruments at different levels: for example, four countries, Croatia, Luxembourg, Netherlands and Norway have implemented at all the hierarchical levels. For what concerns instead the implementation at the national and intermediate level, it seems to be more

typical of Mediterranean and east European countries (Austria, Bulgaria, Cyprus, Czech Republic, Italy, Poland and Portugal); implementation at national and local levels is not that frequent, but it seems to be spatialized in north and east Europe, since the countries are Estonia, Greece, Ireland and Slovenia; lastly, the implementation at the intermediate and local level is present only in the case of Latvia.



Source: author's own elaboration based on ESPON 2017

Figure 17: New instruments at different hierarchical levels

The map shown in the following figure, is the result of the crossing of data on the two transfer trends, the upwards and downwards. It shows the hierarchical level, or the levels that gained more relevance, both thanks to the acquisition of powers and/or competences, and thanks to the implementation of new planning instruments.

Only the countries with both trends, the transfer (independently from the direction, if upwards or downwards) and the implementation of planning instruments, have been represented.

It can be easily noticed how are the intermediate levels the ones that gained more relevance, even if they remain located in the Mediterranean and central areas of Europe. Following, the local level gained importance in five countries, located in the north and the east of Europe; lastly, the national level gained relevance in four countries, located in north Europe.

Furthermore, it seems to be more frequent the case where is only one of the hierarchical levels that gains a strong relevance, through the transfer of powers and/or competences and through the implementation of planning instruments; nevertheless, there are three cases where there are two levels that gain relevance. Iceland, for example, increase the relevance of national and local level; the Netherlands instead gave importance to national and intermediate levels; in the end, Latvia, gave importance to intermediate and local levels.



Legend

- | | |
|---|--|
|  National level |  Intermediate and local levels |
|  Intermediate levels |  National and local levels |
|  Local level |  National and intermediate levels |
|  Countries where the trend is absent | |

Source: author's own elaboration based on ESPON 2017

Figure 18: Levels that gained more relevance

The trend regarding the implementation of sectoral legislation turns out to be one of the less frequent in European countries; the data have been collected through the questionnaires of the ESPON COMPASS research project, even if there wasn't a dedicated section, thus it is probable that some information are missing since not all of the countries felt the importance to talk about this subjects.

Instead, the countries that decided to insert this issue are numerous, 18th to be precise: Austria, Belgium, Switzerland, Czech Republic, Germany, Denmark, Greece, Spain, Finland, Croatia, Ireland, Iceland, Latvia, Netherlands, Poland, Portugal, United Kingdom and Malta, even if the latter did not specify which sectoral legislation is.

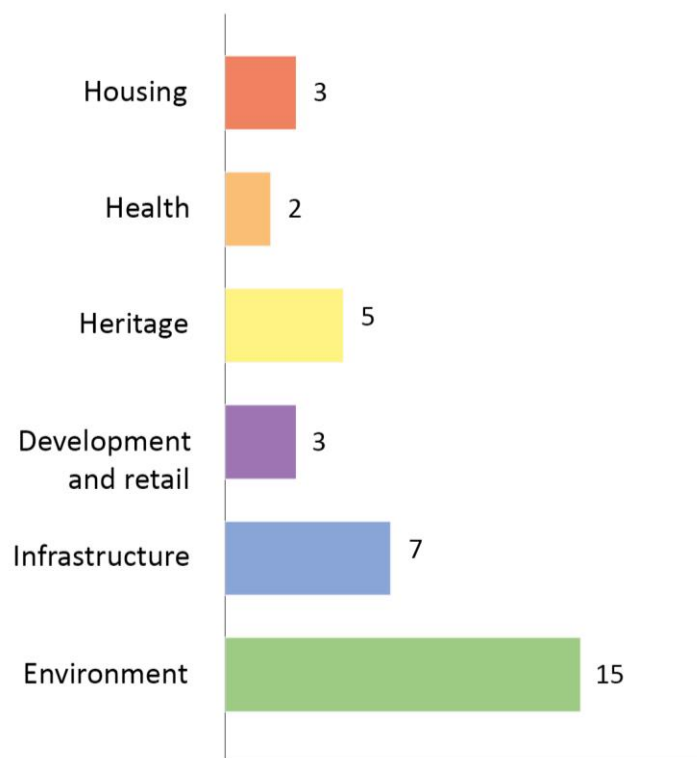
The range of sectoral legislation that influences spatial planning is wide, and not all of the countries have implemented all the different sectors in the last two decades; in the figure below, the graph represents which of these sectors are the ones that saw a greater implementation of legislation.

It can be seen how the environmental issue is absolutely the most treated; both because there are a lot of European directives in the last two decades to which the countries had to adapt through national legislation, both because it is a quite vast holder; in fact, it includes environmental assessment, the issue of air pollution, the water issue, waste, nature and landscape protection, coasts and marine areas protection, flood risk.

Following, the second sector is the one concerning infrastructure, that includes roads, railways, airports and transport in general.

Also the heritage sector is quite present, among which there is, for example, the protection of monuments.

Lastly, there are the development and retail, the housing and development and the health issue.



Source: author's own elaboration based on ESPON 2017

Figure 19: New sectoral legislation

In the following table, there are represented only the countries that have seen the sectoral legislation trend, and it is highlighted which of the sectoral groups have been effectively implemented in the last two decades.

It can be seen how none of those countries have implemented all the different sectors, anyway, Czech Republic is the countries that has implemented legislation in more sectors, in effect, his sectoral legislation concern environmental issues, like environmental assessment, water, waste, forestry and cultivated land protection, landscape and nature protection; infrastructure, as roads and railways; monuments protection and wardship, and finally health.

Other noteworthy example is Denmark, because has a copious sectoral legislation regarding the environment, specifically on climate changes, nature and environment protection, coastal areas protection and hydrogeological risk.

Also Croatia, has numerous environmental issues, like the protection of coastal zones and hilly and mountainous areas.

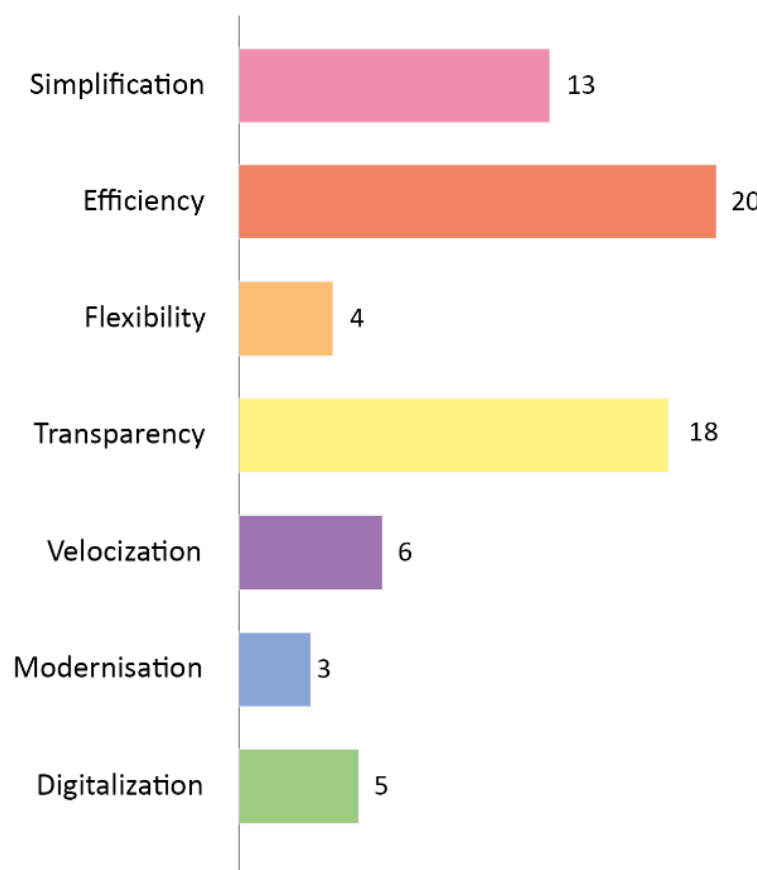
	Environment	Infrastructure	Development and retail	Heritage	Health	Housing and development
Austria	■	■				■
Belgium			■			
Switzerland	■					■
Czech Republic	■	■		■	■	
Germany	■	■				
Denmark	■		■			
Greece	■					
Spain	■	■				
Finland	■					
Croatia	■					
Ireland	■					
Iceland	■			■		
Latvia						■
Malta						
Netherlands	■			■		
Poland	■	■				
Portugal	■	■		■	■	
United Kingdom	■	■	■	■		

Source: author's own elaboration based on ESPO 2017

Table 11: Sectoral legislation

As said before in section 6.1, the changing of the procedure mainly concerns simplification, that can be a consequence of the efficiency improvement, the unification of the building permits, the increase of the transparency, the improvement of flexibility, the digitalization and the shortness of timing.

In the following figure, through a graph it is showed the repartition of phenomena that compose simplification, but also simplification itself because some countries have issued this matter in a wider and less specific sense.



Source: author's own elaboration based on ESPON 2017

Figure 20: Composition of simplification

It can be seen how the most frequent component among the European countries is the one concerning the improvement of the efficiency of planning procedure; following the improvement of transparency. More sporadic instead, are the action on procedure regarding speeding of timing, digitalization, improvement of flexibility of the systems and modernization.

The following table 9, shows all the countries that have this trend and the relative components of simplification.

Some countries, like Denmark, Estonia, Greece, Netherlands, Norway and Slovenia, have four components, among them also the general simplification. Other countries instead, show only some components, for example, Croatia has only an increment of flexibility and digitalization, while Lithuania has general simplification and the increase of transparency.

The improvement of modernization, that, as shown in figure 19 before, results to be the less frequent component, is present in Cyprus, Denmark and Greece; the increase of flexibility is instead present in Belgium, Denmark, Croatia and Latvia; other less frequent characteristic is digitalization, present in Austria, Denmark, France, Croatia, Netherlands; finally, the component concerning the speeding of timing is present only in Estonia, Greece, Finland, Norway, Sweden and Slovenia.

	Simplification	Efficiency	Flexibility	Transparency	Velocization	Modernization	Digitalization
Austria		■					■
Belgium	■		■	■			
Bulgaria				■			
Switzerland		■		■			
Cyprus	■					■	
Czech Republic	■	■		■			
Germany		■		■			
Denmark		■	■			■	■
Estonia	■	■		■	■		
Greece	■			■	■	■	
Finland	■	■			■		
France	■	■					■
Croatia			■				■
Hungary	■	■					
Ireland		■		■			
Italy		■					
Lithuania	■			■			
Luxembourg				■			
Latvia		■	■				
Malta		■		■			
Netherlands	■	■		■			■
Norway	■	■		■	■		
Poland		■		■			
Portugal	■						
Romania		■		■			
Sweden		■			■		
Slovenia	■	■		■	■		
Slovakia				■			
United Kingdom		■		■			

Source: author's own elaboration based on ESPON 2017

Table 12: Composition of simplification

6.4 Other trends: implementation of participation and integration, cooperation and coordination

Regarding the trends about the improvement of citizens participation in the plan making process, the available data are poor in terms of details, because the phenomena is never truly described, but only identifies.

For the purpose of this analysis, the data were crossed with the actual state and the typology, i.e. if it is active or passive participation; however, there is not a detail level able to deepening the analysis previously reported in section 6.1.

Also for the trend concerning the implementation of integration, cooperation and coordination, there are not many details, in the ESPON 2006 research projects there was only highlighted if the phenomena was present or not, while in the ESPON 2017 research project, through the questionnaires it was possible to extrapolate some information, even if there wasn't a dedicated section in the questionnaire.

The most frequent phenomena regards the cooperation between different hierarchical levels, typically the intermediate ones; for instance, in Finland a new city-regional level was introduced, precisely for the improvement of coordination, in Switzerland instead they focused on improvement of strategic coordination at a supra municipal and cross-border level, in Austria, with the Regional Programmes, the provinces strive to realize a coordinated regional planning with the municipalities, lastly, in the United Kingdom in 2011 was introduced an obligation to cooperation, thus among the planning institution there an unwillingness to do so, since there is a widespread practice of working autonomously, going against this obligation to coordination.

Differently, in Bulgaria, the issue regarding spatial planning and development has been transferred from the national law to the regional one, leading thus to a greater trend to a deeper integration.

Lastly, in some countries, there is an improvement of coordination between different sectors, for example, in Czech Republic, in the last two decades, they went

to an improvement of coordination between plans and SEA (Strategic Environmental Assessment), in Luxembourg instead, various instruments strategic and cross-sector have been implemented in order to encourage integration, while in the Netherlands they aimed to the improvement of integration between spatial planning and sectoral policies, especially the one concerning the water issue and the flood risk.

Conclusions

The aim of the thesis was to provide a comparative and comprehensive report on the more advanced research on territorial governance and spatial planning systems in Europe. For this purpose, it was based on the ESPON research projects that, in time, tried to analyse the organization of European territorial governance, highlighting the changes occurred through time.

All the issues considered as important to describe territorial governance and spatial planning systems have been analysed.

The first issue concerns the spatial that are recognized in respective constitutions, i.e. the property right, the expropriation right, the development right; then, the administrative levels of territorial governance with their relative planning instruments, where it was possible to start classifying the countries, on the base of hierarchical levels and the typology and characteristics of planning instruments.

Following, the nature of the local plan which allocates development rights and regulates urbanization has been analysed; here the focus was on the plan making process, classifying the countries in four models, on the base of the number of participatory moments and on their typology.

Finally, a part of the thesis focused on the trends that countries are following and have followed in the last two decades; seven trends have been identified, regarding the transfer of powers and/or competences upwards and downwards, the implementation of new planning instruments, the implementation of sectoral legislation, the changes that occurred in the planning procedure, the implementation of participation and the implementation of integration, cooperation and coordination.

The countries were thus classified on the base of the relevance that those trends had in the last two decades, so the rating of importance (high, medium high, medium low, low) of those trends on each country has been identified.

Subsequently, those trends were described in a more detailed way, highlighting the reasons of the classification and explaining the causes; anyway, for some trends

the available data were well detailed and deep, like, for example, the trends about transfer of powers and/or competences upwards and downwards, instead for other trends, like implementation of participation and implementation of integration, cooperation and coordination, the data were too superficial in order to achieve a more detailed analysis.

Regarding these trends occurred in the last two decades, it was possible to identify also some geographic patterns, that are similarities between the Nordic countries, or between the east European countries, or the Mediterranean countries.

The result achieved have been a comprehensive analysis of the territorial governance and spatial planning systems in the European countries, and the proposal of various classifications, subdivided for the topic addressed, in order to a better understanding and possible further research.

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