



Assessment of regulation of legal relations of territorial planning: A case study in Lithuania



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ABSTRACT

Land management is inevitably linked to the regulation of activities of its proprietor or operator stipulated by legislation and documents of territorial planning. In Lithuania, as in many European countries, territorial planning is a key measure for the formation of landscape and the alteration of its elements. With the help of territorial planning documents, governing authorities has the opportunity to orderly regulate the layout of long-term stable elements of landscape and the sustainable territorial development. However, in comparison with other European Union (hereinafter – EU) countries, territorial planning system valid in Lithuania until January 1, 2014 is still “young” and having specific features with former countries of the Soviet bloc legal regulation. The system did not provided a consistent and sustainable territorial development mechanism: there was the lack of measures allowing to manage the development processes of residential areas and implementation of territorial planning documents (especially the municipal master plans) solutions for the creation of a harmonious functional spatial system. The aim of the present paper is to assess the regulation of legal relations of territorial planning in Lithuania and the EU member states. The assessment summarizes processes of the formation of a landscape during the territorial planning, introduces new opportunities to more accurately predict the results of the current process of landscape planning, and highlights legal and sustainable elements of territorial planning system optimization. As can be seen from the assessment carried out, one of the most important territorial planning objectives was and still remains the balance of mutual relations (hierarchy of plans) of territorial planning documents in shaping the cultural landscape to ensure the rational distribution of the land fund, combining a variety of activities as well as often different land users’ and public interests. Therefore, the implementation of the territorial planning reform of Lithuania capacitates for the transition to an integrated territorial planning, ensuring sustainable development.

1. Introduction

Landscaping issues include sustainable land use conversion process where the most important decisions are made based on the approval of documents of territorial planning.

Territorial planning can be interpreted in several ways. One of the first definitions of territorial planning was presented in the European Regional (spatial) Planning Charter (hereinafter, referred to as Torremolinos Charter), adopted in the Conference of Ministers of the European Council responsible for regional planning held in 1983. According to this Charter, the territorial planning is the geographical expression to the economic, social, cultural, and ecological policies of the society, which must be combined with the land use policy. In addition, the planning must be democratic, functional, and long-term. Scientific literature examining various issues related to territorial planning – pays special attention to the widely declared sustainable

development ideology (Owens and Cowell, 2002; Rodoman, 2002; Walker et al., 2004; Wheeler and Beatley, 2004; Antrop, 2005; Baker, 2005; Puzachyenko, 2006; Whitehead, 2007) and landscape character assesment, during which the results obtained by incorporating them into the territorial planning process can be used as a support tool to help ensure sustainable territorial planning (Will, 2005; Swanwick, 2009; Atik et al., 2015; Wagner, 2016; Trop, 2016). According to the currently applicable wording of the Law on Territorial Planning of the Republic of Lithuania (hereinafter – LTP), territorial planning is a process seeking sustainable territorial development and including the establishment of land use priorities, environmental protection, public health care, heritage protection and other means, the development of residential areas, manufacturing, engineering and social infrastructure, the creation of conditions for the regulation of employment of citizens and the combination of public and private interests (Law on Territorial Planning, 2013). Although definitions of territorial planning estab-

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lished in various sources differ, the key element remains the same, i.e., the aim is to combine different (economic, social, and ecologic) interests. Essentially, territorial planning covers what in the old EU countries has been known for quite a long time, but in Lithuania, as the former country of the Soviet system, this is relatively new and significant, because of the legal system for territorial planning, it was not able to built considerable experience, characteristic to territorial planning systems of the old EU countries, which were created under the conditions of market and democracy, and have the long-term best practice and seeks to generally accept goals of sustainable development. Lithuanian landscape planning evolution is essentially characterized by aspiration to change the short-sighted technocratic landscaping, to give it a wider scientific justification, make it more rational in the context of long-term perspective as well as to protect from solutions that lead to the brink of ecological crisis.

Territorial planning is a dynamic and socially sensitive part of public policy. The result (expression) of all planning processes is a reflection of Lithuanian landscape as well as a social and economic development. Here should be consistency (coordination) with the interests of different social groups in dealing with various economic, social and environmental objectives. In a more recent, performance of the territorial planning in Lithuania, the sustainability and coherence factors in planning the landscape and its processes were being more increasingly analyzed. (Atiežė and Grecevičius, 1997; Daunora, 1996, 2010; Ribokas, 2000; Juškevičius et al., 2009; Gražulevičiūtė-Vilniškė et al., 2011). However, to achieve this is difficult because of the complexity of territorial planning legal system and territorial planning document hierarchy problems (Monkevičius, 2009; Vaišvila, 2011; Aleknavičius and Liaskovskaja, 2009; Aleknavičius and Aleknavičius, 2010; Tiškus, 2015; Klimas and Brazdeikis, 2013; Atik et al., 2015; Wagner, 2016; Trop, 2017).

The legal regulation of territorial planning of the Republic of Lithuania was unstable and constantly changing. In practice, significant problems arose when documents of territorial planning of different levels and types were applied, interpreting the relationship between them. Records contained in the data base of the Parliament of the Republic of Lithuania reveal that within the past 18 years approximately 27 amendments of LTP were made and the new wording of the Law itself was adopted in 2004 and 2013. Such unstable and dynamic regulation implies that the law has faced certain irregularities of legislative application. The complexity of legal regulation issues is also reflected by the abundance of appeals to the Constitutional Court of the Republic of Lithuania. On several occasions, the compliance of individual provisions of the aforementioned law and the related laws with the Constitution of the Republic of Lithuania was questioned. LTP concerns the interests of not only state and public administration entities but also residents and their groups and entrepreneurs and their groups. Therefore, LTP was inevitably criticized as too complex, contradictory, inconsistent, and complicating the opportunities for participants of legal relations to plan, develop, and build. On January 1, 2014, new wordings of LTP entered into force with clearly identified problems of territorial planning. In the conception of the new wording of LTP, it was noted that by then the hierarchical system of territorial planning had been inefficiently structured in Lithuania. Moreover, the tasks and responsibilities for planning supervision and control and the content of prepared documents of territorial planning and their implementation had not been clearly distinguished among the state, regional, and municipal authorities. Furthermore, problems of hierarchical level (legal status, power, and binding effect) of territorial planning had been evident, and there had been opportunities to interpret and speculate the superiority of documents of territorial planning, which resulted in the creation of unfavorable environment for investment and the European Union support for the development of public and economic infrastructure.

Thus, the aim of the present paper is to assess the regulation of legal relations of territorial planning in Lithuania and the EU member states.

This assessment will allow the creation of a more detailed view of the landscaping processes in the territorial planning, provide new opportunities to more accurately predict the results of the current landscape planning process, and aid to highlight legal elements of sustainable territorial planning.

2. Methodology of research and materials

To achieve the aim, methods of analysis and synthesis of scientific literature and legal documents as well as the method of comparative analysis have been applied.

The analysis involved principles, laws, provisions, strategies, scientific articles, and other literature on territorial planning. The main legal instruments analyzed in the paper include [The Constitution of the Republic of Lithuania \(1992\)](#), different wordings of LTP, the [Law on Land \(2004\)](#), other legislation directly related to the territorial planning ([The National Strategy of Sustainable Development, 2009](#); [Program of the Lithuanian Government, 2009, 2013](#); [The Charter of European Planning, 2017](#)) or individual aspects thereof, subordinate legislation, the case law of the Constitutional Court, and other courts of the Republic of Lithuania and its generalizations. Scientific publications have also been reviewed. However, note that there are very few individual legal studies or scientific articles on the subject and most of the studies are incomplete and fragmentary.

Chapter one briefly summarizes the legal regulation of the relation between landscape and territorial planning in Lithuania. Chapter two focuses on legal assessment of documents of territorial planning and the territorial planning reform. Chapter three presents the analysis of legal norms and principles of European states affecting the landscape.

The information obtained from the analysis has been systemized and generalized. The paper concludes with the research findings.

2.1. Case study

Historical development of Lithuanian landscape in the context of planning factors was very dynamic including the periods of evolutionary development and rapid changes. This is related to a number of social- economic reforms held throughout our history (Wallach, individual farms, Soviet, current), which resulted in the change of land-use structure, land composition, and fragmentation and which affected the progress and nature of natural processes in different directions. Therefore, different types of rural landscape (pri-Wallach, Wallach, individual farms, collective farms) and urban parts with different spatial structure and expression, partly preserved as a cultural heritage in the current landscape structure of transitional type, were formed. The essential features of the territorial structure of the current cultural heritage of our country was determined by the effect of purposeful planning largely having occurred under the conditions of rather strong centralized control. Therefore, both rural (agrarian) and urban (city) landscape structures were constantly consolidated by strictly defined planning purposes. Basically, we have no significant habitants of spontaneously-, organically-formed cultural landscape, with the possible exception of some agrarian areas remaining in forest blocks or former spontaneously built-up chaotic urban neighborhoods that are being rapidly restructured. Even the structure of natural (forest) landscape is more or less affected by the planning factors, primarily by the impact of targeted forest management ([The identification study, 2013](#)).

After the independence of Lithuania in 1990, new political, economic, social, and legal conditions occurred to form the landscape in the direction of the conventional land use and the recovery of cultural identity. During this period, the formation of landscape was mostly affected by the consequences of the land reform—the restoration of the private ownership of land, the change of sizes, and changes of purposes of land plots. The priority landscape planning tasks included the renewal (renovation) of urban and rural settlements; the adjustment of the state road network to the European transport infrastructure; the

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