A NEW REGULATORY FRAMEWORK AS BOTH AN INCENTIVE AND CONSTRAINT TO URBAN GOVERNANCE IN SERBIA

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Abstract

This paper aims at critically re-assessing the new regulatory framework for public policy governance in Serbia, a structure of crucial importance for urban governance. Public policy regulation is a key objective of Serbia's Regulatory Reform and Public Policy Improvement Strategy, 2016-2020. The first measure envisaged under the Action Plan to implement this Strategy is the creation of a common legal framework for governing public policies through the enactment of a Planning System Law. Its purpose is to govern the planning system by: (a) defining mechanisms for the adoption and mutual alignment of public policies; (b) establishing instruments to direct public policies and linking policymaking with budgeting; and (c) formalising the currently informal planning practice and integrating it with formal planning in all areas of public policy in Serbia.

In the absence of an appropriate regulatory framework, Serbia's current practices in urban governance have caused a proliferation of mutually unaligned documents and uncoordinated actions by stakeholders at various levels of government, resulting in the unsustainable use of resources and the generation of spatial conflicts. The proposed Planning System Law marks an advance in the understanding of the role and purpose of the public sector in urban governance in line with the concept of sustainable development and the requirements of European integration. This paper will review this Law proposal as a new legislative framework, which ought to contribute to the establishment of system and a system governance model. Therefore, the structure of the system, regarding its elements and their mutual relations, will be analysed with reference to systems theory and the model for the governance of the development process. After omissions were identified in the consistency and integration of the proposed solutions, recommendations to improve the system and its management were developed in line with the contemporary concept of good governance.

Key words: *planning system, public policy, urban governance, good governance concept.*

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1. INTRODUCTION

With the democratic changes and the shift to a market economy after 2000, Serbia embraced a new socio-economic framework that fundamentally altered the country's relationship with urban governance and policymaking. A new notion of (urban) development, the so-called good governance concept, is defined in key United Nations (UN, 1992; UN Habitat, 1996, 2002, 2017)[4] and European Union[5] documents (EU 2007, 2010, 2011, 2016). This concept entails moving away from 'government' towards '*governance*', and focusing on effectiveness and efficiency with the resources available within the context, together with 'involving non-state authorities into the process of shaping policy' (Petrović, 2012:88). The concept has been adopted in principle in Serbia, which has created a need for comprehensive structural reforms to ensure the rule of law, clear standards, transparent procedures, a free market, and high-quality services for private individuals and businesses, and establish new relationships between public authorities, businesses, and members of the public.

Public administration reform is a key element in structural reforms to the public sector aimed at enhancing the efficiency and transparency of public administration, building trust amongst the public, the private sector, the civil sector and foreign investors, and ensuring the long-term sustainability of public finances and an environment conducive to doing business. In addition to 'internal' pressures, structural reforms of the public sector in Serbia have also been driven by 'external' pressures brought about by the process of accession to the European Union (EU) and the need to align Serbian legislation with European law. There is no legal framework governing public administration in the EU; the member states' shared system of values is based on a set of principles of what is called 'European administrative space' (OECD, 1998), such as: (a) reliability and predictability, or legal security; (b) openness and transparency of the administrative system and greater participation by members of the public and other entities in the work of the public administration; (c) accountability of public administration; and (d) its efficiency and effectiveness.

The Public Administration Reform Strategy in the Republic of Serbia ('PAR Strategy') was adopted in early 2014. It represents a continuation of reforms

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[4] Agenda 21 (UN, 1992), UN Habitat II (1996), UN Habitat Global Campaign for Good Urban Governance (2002) and UN New Urban Agenda (Habitat III) (2017). All these documents are based on the UN's Universal Declaration of Human Rights (1948).

[5] Leipzig Charter on European Cities (EU, 2007) Toledo Declaration (EU, 2010), European Commission's Cities of Tomorrow Report (EU, 2011) and Urban Agenda for the EU (EU, 2016) which describe all the groundwork in defining principles of good governance and integrated (urban) development.

begun in 2014 with the State Administration Reform Strategy in the Republic of Serbia ('SAR Strategy'), and is part of a set of regulations and strategic documents, of which the most important are the National EU Integration Programme, National Programme for the Adoption of the *Acquis* (2011-2016), and the Regulatory Reform and Public Policy Improvement Strategy, 2016-2020 (2016). All of these documents reference the above-mentioned European principles of good administration, and aim to streamline state and local administration, govern their remits, and enhance the institutional and professional capacity for their implementation.

The key principles of the PAR Strategy (2014) are de-centralisation, de-politicisation, professionalisation, optimisation, and modernisation. A key measure for implementing the PAR Strategy, as defined in the Action Plan to Implement the Public Administration Reform Strategy, 2015-2017 (2015), is the enactment of the Regulatory Reform and Public Policy Improvement Strategy, 2016-2020 ('RR Strategy') and its accompanying Action Plan (2016).

The RR Strategy (2016) and its Action Plan require the enactment of a Planning System Law and a set of byelaws, in particular a Government Order on Methodology for Policy Governance, Policy and Regulatory Impact Assessment, and the Content of Individual Policy Documents. The guiding idea is for this law to establish a coherent system for efficient and effective public policy planning and governance across all levels of government.

In late 2016, a draft of the Policy System Law was developed that received a rather low-key presentation to both the general and the professional public, resulting in limited consultation about its features. Between December 30, 2016 and January 20, 2017, two roundtables were held for public administration, the Parliament, independent government authorities and organisations, local governments, civil society organisations, business associations, and other stakeholders. Thirty representatives of the public, civil, and business sector submitted a total of 79 comments, proposals, and suggestions regarding the draft piece of legislation, of which 41 (52%)[6] were adopted and incorporated into the Planning System Law draft, which entered the enactment procedure on September 8, 2017 as a Law proposal.

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[6] As stated in the Report on Public Consultations on the Draft Planning System Law, the civil sector (civil society organisations, professional associations, academic institutions, and citizens) submitted a total of 54 comments, of which 27 were adopted completely and another 2 in part, whilst 25 were not accepted. The public sector (bodies and organisations at various levels of government) made 22 comments (14 accepted, 8 rejected), and the private sector (Serbian Chamber of Commerce and private firms) made 3 comments, of which none were accepted.

The primary objective of the Law proposal is to regulate the entire planning system of the Republic of Serbia (Article 1, Paragraph 1), which is defined as an asset made up of the following elements: planning documents; planning stakeholders; the public policy governance process; the process of alignment with other planning documents and regulations; and linkages between the process of enactment and implementation of public policies with the medium-term planning process (Paragraph 1, Item 2).

The Planning System Law ought also to be viewed in the context of the country's EU accession process, and in particular requirements under negotiation chapters 17 (Economic and monetary policy) and 22 (Regional policy and co-ordination of structural instruments). The Ministry of Public Administration and Local Government (MPALG, 2016) has clarified that the key reason for the enactment of the Law and its accompanying byelaws is 'the need to establish an efficient, transparent, co-ordinated, and realistic planning system at the central and local level that covers all key aspects of social and economic development policy and regional spatial development whilst at the same time optimising the use of budget funds; allowing sustainable growth and development of the Republic of Serbia, including local governments.'

This paper also analyses and critiques the new planning system governance framework in Serbia as defined in the Law proposal and its two accompanying Government Orders.[7] It analyses the structure and content of the proposed model with reference to systems theory and the value of the good governance concept. The first part of the paper briefly outlines the concept of the new governance model and the methodological approach. The second section analyses the elements of the proposed planning system and the relationships between them. The third section summarises the principal findings and presents key criticisms of the proposed planning system.

2. GOVERNANCE AND PLANNING

2.1. A new model for the governance of development

Over the past twenty years, as changes to the development context have accelerated and become less predictable, the governance model has altered as well. The fundamental characteristics of this new governance model, as defined by the key EU and UN documents mentioned, are: (a) flexibility in decision-making, and (b) integration of the various levels of 'relevant' stakeholders (local, regional,

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[7]The Government Order on Medium-Term Planning Methodology (draft, December 2016), and the Government Order on Methodology for Policy Governance, Policy and Regulatory Impact Assessment, and Content of Individual Policy Documents (draft, December 2016).

national, and, in the context of European integration, European public agencies) and other 'affected' stakeholders into a consistent and integrated system. The basis is the UN definition of good governance, with its eight characteristics: (1) it follows the rule of law; (2) it is consensus-oriented and participatory; (3) effective and efficient; (4) accountable; (5) transparent; (6) responsive; (7) equitable; and (8) inclusive (UN-ESCAP, 2009).

Governance refers to the relationship between civil society and the state, or, 'the government and the governed' (Halfani, McCarney and Rodriguez, 1995, p. 95). Moreover, 'governance is the capacity to integrate and give form to local interests, organizations and social groups and, on the other hand, the capacity to represent them outside [...] towards the market, the state, other cities and other levels of government' (Le Gales, 1998, p. 496). In this case, governance relationships represent negotiation mechanisms for joint action (Garcia, 2006).

Apart from diminishing the authoritarian tendencies of authorities, this new model is characterised by transition from a socially-responsible to an entrepreneurial state, which requires a downsizing of the bureaucratic apparatus accompanied by greater efficiency and effectiveness of public administration. Change governance is an essentially political process that seeks to strike a balance between diverse interests so as to resolve conflicts in the use of goods, or to distribute resources. Democratic societies have institutionalised conflict and co-operation as the key drivers of policy-making (Lazarević Bajec, 2002).

2.2. Urban governance and planning

The interpretation and discussion of the genesis and interdependencies between development contexts, governance modes, and urban planning and development can be followed through the theoretical works of the following key authors: Harvey (1989), Healey (1996), Le Gale's (1998), Hydén (2011), DiGaetano and Strom (2003), Garcia (2006) and Innes and Booher (2003; 2010).

The relationship between administration and society provides the framework for the development of urban or territorial governance. These two forms of governance are both seen as a complex set of political communities where partnership-building, coalitions, public dialogue, and networks intersect in order to create new policies and rules. An incentive for these innovations has come from the repositioning of cities and urban regions in new geographies and/or political environments, promotion of competitive local economies, narrowing of the gap between the public, businesses, and the state, and the elimination of so-called democratic deficits (Healey, 2007). According to Coaffee and Healey (2003), the critical capacity of innovative urban governance, which is able to mobilise and

create improvements, is its ability to recognise situations whilst taking risks in choosing the appropriate model, and its ability for rapid re-orientation. These changes require capacity for mobilising collective action: the processes involved entail establishing strategic directions and measures for implementation that aid in the co-ordination of various stakeholders and activities and the introduction of changes and adaptations.

In contemporary conditions, urban governance should rely on practical experiences rather than normative frameworks (Hyden, 2011, p.19). Hence, urban governance means enhancing mechanisms where various community interests, priorities, needs, and values amongst each other can be discovered through discursive practice. This implies the involvement of multiple stakeholders and the examination of the specific local context, but also an understanding of the constantly changing framework of urban governance (Cities Alliance & N-AERUS, 2016). Urban governance and territorial development practices are also attached to the emergence of new institutional forms that draw heavily on a greater involvement of a variety of individuals or actors (Moulaert, Martinelli, González & Swyngedouw, 2007).

With the shift of the planning paradigm that took place in the 1980s, planning ceased to be treated as an instrument of control, but rather became an instrument of innovation and action. This made a profound impact on the consideration of: (a) issues of the values within which planning practice takes place; (b) strategies to be applied, and (c) modes of civic/stakeholder participation to be developed (Friedman, 2003). This was a departure from treating planning practice as rational decision-making, and constituted acceptance of a model of planning as political practice (Friedman, 2008).

Strategic planning is most commonly linked with changes to the governance model described above. For Bryson (1995), the key tenets of a strategic approach to governance are defining the purpose of planning, understanding the environment, in particular the forces that promote or impede the fulfilment of the purpose of planning, and being creative in developing effective responses to these forces. Effective strategic planning is useful only if supported by strategic thinking and if connected with strategic governance (Čolić, 2009).

Healey (2007) believes that strategic planning primarily aims at introducing different models and changes of governance aligned with one another. The priority task of strategic planning is to assume a role in determining avenues of action through complex societal dynamics. It is often said that the role of strategic planning is to link planning with institutions and resources that can be secured, but there are other key aspects at hand as well. 'This is primarily about achieving

consensus by all stakeholders around crucial strategic choices, as well as making room for rapid reaction in the case of developmental initiatives' (Lazarević-Bajec, 2004, p.20).

Strategic planning as an instrument of spatial governance is complementary to a spatial governance system reliant primarily on 'traditional' instruments: spatial and urban plans. It is therefore only logical that key differences between traditional and strategic planning actually constitute the key topics that strategic planning focuses on: (i) the importance of vision; (ii) prioritisation of objectives based on an assessment of the developmental context; (iii) significance of feasibility criteria in selecting solutions offered by the strategy; and (iv) definition of the conditions and requirements for their implementation (Milovanović Rodić, 2013).

2.3. Governance of the development process

The concept of governance was introduced into the practice of spatial and urban planning as early as the 1960s, together with the development of a rational paradigm and the rise in understanding of planning as a process. This was greatly influenced by changes to organisational management that took place in the 1950s, with the emergence of issues of decision-making in complex situations. Particular improvements were made to the field of governance by developments in information technology and automatic systems control (Maruna, 2009). These disciplines are, in essence, focused on the development of mechanisms that permit the efficient communication and control of complex systems. Their evolution has made a vast impact on changes to the planning paradigm, whereby the concept of using automatic controls to manage complex systems was translated onto complex interactions in human society (Hall, 2002).

The notion of rational planning entails instrumentalising particular procedures, such as finding the best way (action or policy) to achieve a particular result, and planning as an iterative process of defining problems, identifying objectives, and developing and evaluating alternatives in accordance with pre-determined objectives. The rational planning model has, therefore, laid foundations for procedures to uncover optimal solutions, and developed the appropriate set of planning procedures. The need to organise planning tasks and arrange procedures that are part of the complex process of arriving at a planning solution has conditioned the development of planning governance (Klosterman, 1997).

Governance is characterised by the organisation of complex dynamic systems through the ordering of tasks within complex processes. Key principles for controlling complex systems, especially those involving the human factor, are

thought to be universal (McLoughlin, 1969). The governance of complex processes comprises methods, techniques, and tools to design, control, analyse, and evaluate components of those processes, which include people, organisations, applications, documents and other sources of information, as well as a set of planning and monitoring activities to be implemented when each process is executed (Nokes, Major, Greenwood, Allen & Goodman, 2005; Maruna, 2009; Maruna & Maruna 2009, 2013).

Steering the course of a multi-faceted process that has a solution as its outcome is termed governance of the development process. Contemporary practice in governance of the development process has established standard components that define who contributes to the development of any given solution, as well as when, how, and why they do so. Sound governance therefore entails:

- Establishing a sequence of activities for all stakeholders;
- Defining a venue and mode for co-operation and the co-ordination of activities of the various stakeholders;
- Defining and managing tasks of both individuals and teams;
- Specifying the deliverables involved and the mode of their development and presentation; and
- Offering indicators to monitor development and evaluate solutions (Nokes et al., 2005; Maruna, 2009).

3. REVIEW OF NEW LEGISLATION GOVERNING THE PUBLIC POLICY SYSTEM IN SERBIA

3.1. Some features of Serbia's planning system

The key change to the planning system in Serbia brought about by the transition from the socialist to the post-socialist period has been (a) the introduction of 'previously hidden or latent, and now legitimate, individual interests', whose articulation and achievement have required the introduction of (b) 'completely new mechanisms' and (c) 'a new composition of governance mechanisms' (Vujošević, Petovar, 2008, p.28). As in many countries in transition, strategic planning is in Serbia being introduced as a parallel form of planning, with the key purpose of overcoming the limitations of traditional strategic planning: its slowness, inflexibility, inefficiency, sectoral divisions, and focus on physical planning (Lazarević-Bajec, 1996, 2002, 2004; Stojkov, 2004; Vujošević, 2003; Vujošević & Petovar, 2008, 2010; Čolić, 2003, 2009, 2015; Mikavica & Čolić, 2017; Milovanović Rodić, 2015; Milojkić et al., 2015). What makes strategic spatial planning different from land use planning is that spatial planning is not just about deciding what should happen on land but about bringing people, institutions,

agencies etc. together to work in a location. The inclusion of actors at all stages characterises the process of spatial strategy formulation. While a land use plan can be realised with a minimum of stakeholder involvement, the strategy relies on the involvement of stakeholders and citizen participation.

Its different methodology can make strategic planning play a central role in transforming the planning system, moving to a participatory planning system, formulating strategies, and contributing to the development of democratic decision-making and capacity-building for all stakeholders. In a complex transition environment characterised by a lack of capacity, institutional disarray, problems with information and databases, and insufficient support to transparent decision-making and public participation, much effort must be invested into adjusting international methodologies to local conditions and abilities. This is so because the harmonisation of institutions and methods is not confined to enacting legislation, but also includes concentrating on new methods of work that will ensure greater clarity of development policies and respond to new challenges (Lazarević-Bajec, 2004). According to Vujošević and Petovar (2010, p. 190), Serbia requires more serious strategic planning, based upon strategic thinking, research, and management.

Although numerous strategic documents have been enacted that are aligned with international standards and recommendations, there are vast differences in how they have been prepared and developed, how mandatory they are, and what their quality is. One of the reasons for the difference in quality can lie in the primary motives for their development. Many strategic documents have been prepared due to the requirements posed and incentives offered by the EU in the course of Serbia's accession process. Strategic planning was part of the package of instruments that had to be enacted to align the Serbian system with European law and practice. The idea here was for regulatory changes to be preceded by action at the legislative level, in line with the understanding that 'there will be least benefit if the entire body of EU law is only mechanically transposed into the legislation and practice of member states and candidate countries' (Vujošević, 2010, p. 188). Therefore, much European financial and technical support has been aimed precisely at enhancing the capacity of key stakeholders, 'with the primary aim of increasing the absorption of funds and capacity to co-finance projects' (European Commission, 2014, p. 46) and developing strategies declared as mandatory preconditions for access to and participation in various European funds and projects. By contrast, a number of governance authorities at various levels of government have embraced strategic planning as a means of overcoming the powerlessness of the 'traditional' planning system to respond to increasingly complex problems of development (Milovanović Rodić, 2015).

The state of planning and the planning system in Serbia, and the process of their transformation, have been in the focus of research by academic and professional communities in recent decades (Lazarević Bajec, 1996, 2002, 2004; Vujošević, 2003, 2009, 2010; Vujošević & Petovar, 2008, 2010; Vujošević, Spasić, 2007; Vujošević, Zeković & Maričić, 2010). In addition to these studies, this paper in particular draws upon surveys that can be considered part of the state's efforts to reform the governance of the development system, which will be concluded with the final enactment of the Planning System Law and its associated byelaws. Let us particularly highlight two such surveys, carried out in 2007[8] and 2010[9] (Milić, 2014) in all municipalities and towns in Serbia, which resulted in the creation of a database of planning documents (focusing on strategic documents), their timeframes, and areas of coverage, and the institutions responsible for developing or implementing strategic plans at the local level. Both have borne out that most adopted strategic documents had major shortcomings, such as the absence of any clear strategy, clear action plans, and mechanisms for implementation, the absence of any performance assessment, and much overlap. It was recommended to retain and update fewer than 50% of the documents reviewed, and noted that 'in spite of there being numerous strategic and action plans, the policy planning and co-ordination system in Serbia is underdeveloped' (Milić, 2014:7). According to Vujošević (2010, p.23-24), two attempts can be identified to establish a development framework to allow the integration and co-ordination of various (sectoral and general) policies at various levels of government: Spatial Plan of the Republic of Serbia (SPRS) (1996) and Spatial Plan of the Republic of Serbia (SPRS) 2010-2014-2020 (2010). Although both plans had the ambition of being 'more than just spatial development plans' and had a very elaborate system of a large number of basic reference points, strategic commitments, general goals, and implementation measures, the opportunity was missed for (a) the SPRSs to be the backbone of policies and their planning documents, and for (b) alignment with the SPRSs to be the key criterion for their quality and feasibility. Vujošević (2010, p.24) believes that this failure was caused both by continuing pressures exerted on the development context from the outside (for the first SPRS, these were the conflicts in the former Yugoslavia, international sanctions imposed against Serbia, and the NATO bombing campaign; the second was adversely affected by the global economic downturn) and by the lack of political will and, as such, the absence of synchronised institutional action, as well as the lack of alignment with the 'planning culture and capacity' of planning institutions and professionals, and the 'transformative and modernising capacity' of Serbian governance elites. The SPRS' capacity to promote integration has been seriously harmed by uncoordinated and

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[8]As part of a project titled 'Support for enhancing active policy co-ordination in the Government of Serbia', where the beneficiary was the Government General Secretariat.
[9]Part of a joint initiative by the Deputy Prime Minister's Poverty Reduction Strategy Implementation Team and the SCTM.

competitive sectoral actions by authorities at all levels of government, which have been quite dependent on political parties who view government departments as the 'spoils' of political warfare and run them along feudal lines.

3.2. A new regulatory framework for Serbia's planning system

The proponents of the Planning System Law state that the Law 'is aimed at introducing uniform standards for sound planning and policymaking at all levels in the Republic of Serbia, stronger linkages between planning and programme budgeting, and better co-ordination between the national, provincial, and local level'. They go on to claim that the Law will contribute to the creation of a 'comprehensive, efficient, transparent, co-ordinated, and realistic planning system'. The proposed Law insists on the provision of evidence-based policymaking mechanisms and the creation of instruments to steer policies towards desired results and effects, as well as to link them with the budget. The structure of the proposed Law is based on the issues identified with the current public policy planning system, which include: insufficient use of evidence-based policy and regulatory impact assessment in planning and developing policies and legislation; an under-developed planning system aligned with Government priorities; lack of a clear and efficient system to implement, co-ordinate, monitor, and evaluate policy documents and regulations; a deficient reporting system; and little consultation (Government of Serbia, 2017). The proposed Law aims to regulate the Serbian planning system and public policy governance, including by defining: the type and content of planning documents; the types and powers of planning stakeholders; alignment between planning documents; policymaking and implementation; mandatory reporting on the achievement of public policies; and mandatory regulatory impact assessment and performance evaluation (Planning System Law Proposal, 2017).

The Law proposal defines the planning system as a set of elements comprising: planning documents; planning stakeholders; the public policy governance process; alignment with other planning documents and regulations; and linkages with medium-term planning. Public policy system governance is defined in the proposal for this piece of legislation as the execution of a number of activities: development, planning, adoption, and implementation of public policies; their monitoring; impact assessment; performance evaluation; and, finally, improvement of public policies based on the findings of this evaluation. Co-ordination and reporting are envisaged as integral parts of the public policy governance process.

According to the Law proposal, Parliament, the Government, and relevant local government bodies are stakeholders in the planning system, and they make

policies by formally enacting them. Other stakeholders, who may take part in the planning of public policies but are not policymakers as such, include public authorities and services of the Government, as well as the authorities and services of local governments.

In addition to introductory provisions, which govern the scope, provide key definitions, and set out the principles of public policy governance, the body of this Law proposal is made up of the following segments: (a) planning documents; (b) medium-term planning; (c) policymaking and implementation; and (d) reporting and publication.

3.2.1. Analysis of the structure of planning documents

According to the Law proposal, a planning document is an enactment by means of which a stakeholder in the planning system sets objectives, determines public policy priorities, and plans the measures and activities to attain them within the bounds of its authority and in connection with its operations. The Law proposal distinguishes between three key groups of planning documents: Development Planning Documents; Public Policy Documents; and other planning documents (Figure 1).

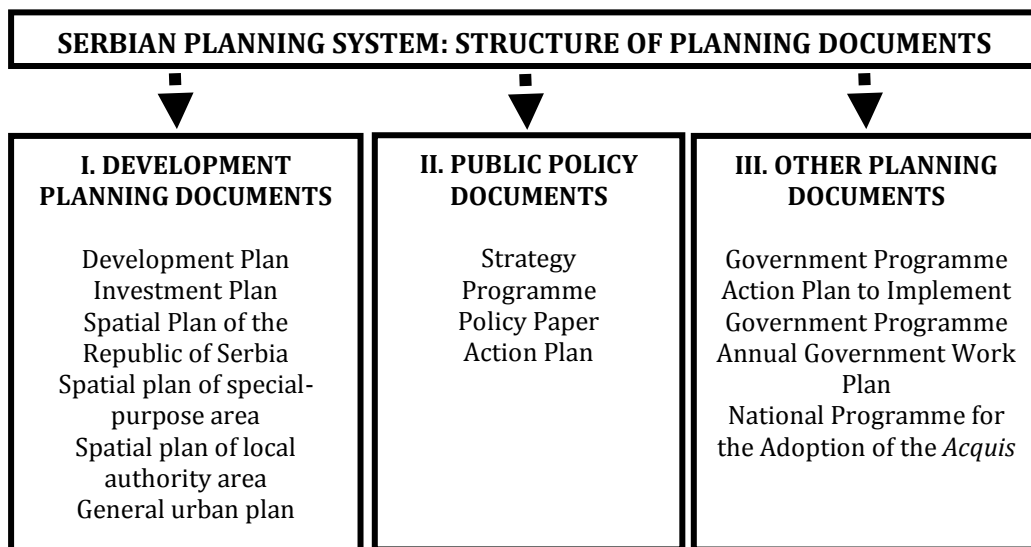| SERBIAN PLANNING SYSTEM: STRUCTURE OF PLANNING DOCUMENTS		
I. DEVELOPMENT PLANNING DOCUMENTS	**II. PUBLIC POLICY DOCUMENTS**	**III. OTHER PLANNING DOCUMENTS**
Development Plan Investment Plan Spatial Plan of the Republic of Serbia Spatial plan of special-purpose area Spatial plan of local authority area General urban plan	Strategy Programme Policy Paper Action Plan	Government Programme Action Plan to Implement Government Programme Annual Government Work Plan National Programme for the Adoption of the *Acquis*

Figure 1. Structure of planning documents according to the Planning System Law proposal (2017)

The group of Development Planning Documents comprises: a) Development Plans; b) Investment Plans; c) Spatial Plan of the Republic of Serbia and other spatial plans and general urban plans; and d) Development Plans of Autonomous

Provinces and Development Plans of Local Governments. Development Planning Documents are structured so as to set out a defined planning horizon, nominate the authority responsible for enacting the planning documents and other planning stakeholders, and indicate the purpose and content of the document. The Law also requires these plans to be aligned with other planning documents and envisages a monitoring procedure. The types and structures of Development Planning Documents are listed in detail in Table 1 below.

Table 1. Structure of planning documents according to the Planning System Law proposal (2017): Development Planning Documents

PLANNING DOCUMENTS Development Planning Documents					
Name	Planning horizon (years)	Authority for enactment	Other stakeholders	Purpose	Content
Development Plan	10	Parliament	– Public authority responsible for public policy co-ordination – Other public authorities – Government services	– Establishment of sustainable regional development policy	– Vision – Priority objectives – Guidelines for attainment of objectives
Investment Plan	7	Government	– Ministry of Finance – Public authority responsible for public policy co-ordination – Other public authorities – Government services	– Planning of medium - term public investments in areas of public interest (investment programmes and public investment programmes) – Elaboration of priority development objectives from Development Plan	*As determined by the Government*
Spatial Plan of the Republic of Serbia and other spatial plans and general urban plans *	7	Parliament of Autonomous Province	– Relevant authority of Autonomous Province	– Provides basis for further elaboration of public policies	– Review and assessment of current situation – Vision – Priority objectives – Overview and description of appropriate measures
Development Plan of Autonomous Province and Development Plan of Local Government	7	Local legislature	– Relevant local government authority – Municipal or town council	– Provides basis for further elaboration of public policies and medium-term local government plan	– Review and assessment of current situation – Vision – Priority objectives – Overview and description of appropriate measures

* These plans are defined by legislation governing spatial and urban planning.

There are four types of Public Policy Documents: a) Strategy; b) Programme; c) Policy Paper; and d) Action Plan.

These Public Policy Documents include a planning horizon, the mode of implementation of the public policy in question, the purpose, and content. The types and structures of Public Policy Documents are listed in detail in Table 2 below.

There are a number of additional planning documents envisaged in the Law proposal: these are the Government Programme, the Action Plan to Implement the Government Programme, the Government's Annual Work Plan, and the National Programme for the Adoption of the *Acquis.* The purpose of these documents is to regulate the Government's priority objectives, including their enactment, elaboration through a set of measures and modes of implementation, and designation of the authorities responsible for delivering them and the outcomes they ought to result in.

The Law proposal refers to public policy measures as sets of key interconnected activities that are undertaken so as to attain the goals and objectives of a particular public policy. According to the Law proposal, public policy measures may be: a) regulatory measures, which set standards and rules that govern societal relationships; b) incentives, comprising fiscal measures and other financial and non-financial arrangements; c) information and education measures; d) measures that pertain to institutional, management-related, and organisational issues; and e) provision of goods and services by stakeholders in the planning system, including public investments.

3.2.2. Analysis of medium-term planning arrangements

The Law proposal addresses medium-term planning by setting out the characteristics and purpose of medium-term plans, mandating their development and enactment, and regulating their content and relationship with the national budget. Medium-term plans are defined in the Law proposal as comprehensive planning documents that allow connections to be made between public policies and the medium-term expenditure framework. These plans are mandatory for public authorities, compulsory social insurance organisations, other beneficiaries of budget and public funds at the national, provincial, and local level, and local governments. Bodies required to engage in medium-term planning are also responsible for implementing public policies.

Table 2. Structure of planning documents according to the Planning System Law proposal (2017): Public Policy Documents

PLANNING DOCUMENTS Public Policy Documents				
Name	Planning horizon (years)	Mode of implementation	Purpose	Content
Strategy	5-7	– Action Plan to Implement Strategy	– Strategic avenue of action of a public policy in a particular planning area – Implementation of the Government's public policies	– Vision – Review and assessment of current situation – Goal and objectives (one goal and up to five objectives) – Measures to attain objectives – Key performance indicators – Institutional framework for implementation and monitoring, evaluation, and reporting plan – Other features as envisaged by a relevant byelaw
Programme	3	– Action Plan to Implement Programme	– Elaboration of an objective envisaged by a Strategy or another planning document – Consolidation of multiple related projects that cannot be achieved individually	– Vision – Review and assessment of current situation – Goal and objectives (one goal and up to three objectives) – Measures to attain objectives – Key performance indicators – Institutional framework for implementation and monitoring, evaluation, and reporting plan – Other features as envisaged by a relevant byelaw
Policy Paper	/	– Measures to achieve solution	– Initial public policy document that sets forth principles for undertaking systemic reforms in a given area – Guidelines for preparation of a Strategy or Programme – Consolidation of mutually exclusive development options	– Review and assessment of current situation – Description of the desired change – Goals and objectives – Elaboration of possible groups of mutually exclusive public policy measures – Findings of impact assessment – Results of consultations and additional impact assessments – Proposal and justification of chosen option and mode of its implementation – Other features as envisaged by a relevant byelaw
Action Plan	3-7	/	– Elaboration of a Strategy or Programme to attain objectives – Integral part of a Strategy or Programme	– Goals and objectives as set forth in the relevant Strategy – Measures and activities – Institutions responsible for implementation, monitoring and reporting – Period of performance of measures and activities – Funds required and sources of finance – Performance indicators – Linkages with relevant regulations – Other features as envisaged by a relevant byelaw

According to the Law Proposal medium-term plan consists of:

- Goals and objectives;
- An overview of measures to attain the goals and objectives, with references made to the budget programme;
- Linkages between measures and priority objectives from the Development Plan and Government Programme;
- Linkages between measures and Public Policy Documents;
- Funds required to implement each measure;
- Detailed overview of activities to implement the measures;
- Performance indicators to monitor attainment of goals and objectives;
- Risks to and requirements for the implementation of the measures; and
- Other features as envisaged by a relevant byelaw enacted by the Government.

Medium-term planning must be aligned with the budgeting process and must correspond to the features of the budget.

3.2.3. Analysis of public policymaking and implementation arrangements

The section of the Law proposal that deals with public policymaking and implementation provides: a closer definition of the powers for developing public policy documents and initiatives for their adoption; mandatory ex ante impact assessment and the subsequent presentation of its findings; mandatory internal and public consultations; the enactment and implementation of public policy documents; monitoring, assessment, and performance evaluation; and subsequent effects on amendments to relevant legislation.

Public policymaking and implementation is defined in the Law proposal as a process that consists of a number of activities: initiation; ex ante impact assessment; presentation of the findings of the assessment; consultations with stakeholders and target groups; public consultations; submission of the proposed policy for enactment; enactment; implementation; monitoring; ex-post assessment (or performance measurement); and performance evaluation. Control and reporting are envisaged as integral parts of the policy governance process.

3.2.4. Analysis of reporting and publication arrangements

A separate chapter of the Law proposal regulates the reporting and dissemination of the results of the implementation of public policy documents through an information system. Institutions responsible for proposing public policy documents are required to report on their implementation and impacts. These bodies must then make these reports publicly available on their official websites

and/or by means of an information system that is used to monitor the entire public policy governance process. All information posted online must be in an open digital format that permits downloading and use of the data.

4. DISCUSSION AND PROPOSALS FOR IMPROVEMENT TO THE NEW REGULATORY FRAMEWORK

4.1. Structure of public policy system governance

By applying the methodology of governance of the development process to a detailed review and analysis of public policy system governance as defined in the Law proposal the following components of the system can be identified:

- Deliverables: Planning documents and a medium-term plan, with a clearly defined structure of documents
- Stakeholders: Participants in the planning system
- Activities: The public policy governance process
- Integration: The alignment of planning documents with other such documents and legislation, and their linkages with medium-term planning.

From the perspective of governance of the development process, the system contains all the key elements, but its structure requires adjustment, primarily to (a) define a clearer hierarchy of system governance components to establish a functional development process, and to (b) make adjustments to the terminology used to refer to the components and their relationships. First of all, a distinction must be made between two levels of governance: (a) public policy system governance, and (b) public policy governance. The first level, public policy system governance, entails a process of co-ordination of all components of the public policy system, including: deliverables – public policies; stakeholders – participants in the public policy governance process; activities – governance of public policy; and integration – the process of aligning the public policy system with other systems. The second level of governance – public policy governance – is only a component of the first level of governance and comprises establishing and implementing public policies, which includes activities of preparation, planning, enactment, implementation, monitoring, impact assessment, performance evaluation, and enhancement of public policies (Figure 2).

A table summarising the proposed terminological and conceptual adjustment in line with these observations is given below (Table 3).
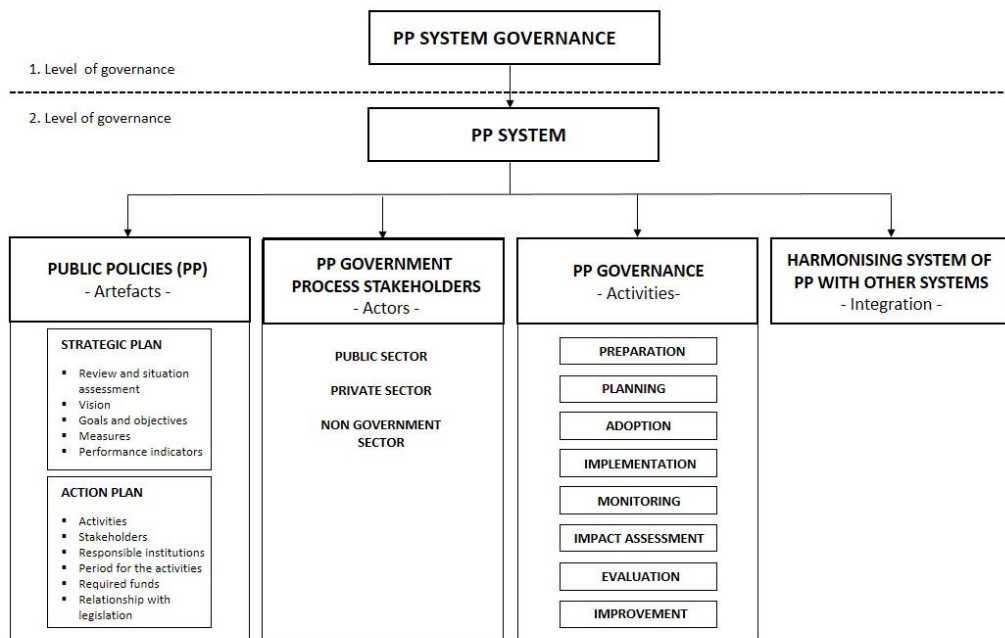
Figure 2. Proposal for improving the model as defined in the Low proposal by introducing two levels of governance: 1st level – Public Policy System Governance, and 2nd level – Public Policy Governance
Source: Authors

Table 3: Comparison between current and proposed terminology for public policy system governance

Current terminology	Proposed adjustments to terminology
Planning system	Public policy system
Planning system management process	Public policy system governance process
Planning documents	Public policies (or public policy documents)
Planning system stakeholders	Stakeholders in the public policy governance process
Public policy system management process	Public policy governance process

4.2. Definitions of types of public policies

Deliverables, or public policy documents, are a distinct component of the public policy governance system. The proposed Planning System Law refers to them by the general name of 'planning documents', and recognises three different types: (a) Development Planning Documents; (b) Public Policy Documents, and (c) other planning documents. The category of Development Planning Documents can additionally sub-divided into two groups: (a) Development Plans, and (b)

Investment Plans. Development Plans are defined as sustainable development policies and differ by level of governance (national, provincial, and local). By contrast, under the proposed Law, Investment Plans ought to define medium-term investments in areas of public interest.

This division of so-called 'planning documents' reveals a lack of understanding of the notion of sustainability, which calls for development that acknowledges three key aspects of sustainability: the economy, society, and the environment, and calls for their mutual alignment. This means that every public policy document must refer to the sustainable development concept, and, as such, must thoroughly consider financial aspects. Moreover, not even the statutory name of the planning document, 'Development Plan', serves to explain the particular nature of the policy in question, since any public policy is, by definition, a 'development policy'.

The second group of 'planning documents' envisioned by the proposed Law are the 'Public Policy Documents'; this category comprises: a) Strategies, b) Programmes, c) Policy Papers, and d) Action Plans. Any differences between 'Planning Documents' and 'Development Planning Documents' in terms of their structure, purpose, and content cannot easily be discerned. As such, the general term used for all policy deliverables should be 'Public Policy Documents', as they all pertain to development planning.

Additionally, the proposed Law also envisages a separate category of Medium-Term Plans, which aim at linking public policies with the medium-term expenditure framework. Although the legislator's intention here seems to have been to single out this category due to the importance of alignment with the relevant public budget and to endeavour to overcome the traditionally deficient practice of separating policymaking from budgeting, the solution does not lie in splitting them apart. The amalgamation of these two policymaking practices can be achieved by implementing integral and inter-sectoral governance of the public policy system, or, in other words, by pursuing multi-level governance.

4.3. Definition of the structure of public policies

Particular attention ought to be accorded to the definition of the structure of deliverables, which follows the logic of strategic planning, and essentially consists of a strategic document and its accompanying action plan. Each strategic document is generally comprised of: a review and situational assessment; the vision; goals and objectives, and measures to attain them; and performance indicators. In the proposed Law, this structure varies with the type of policy document in question (Strategy, Programme, or Policy Paper) and its purpose (development of a specific public policy area, elaboration of a specific public

policy objective, or integration of related policies). The proposed structures of these public policies differ in the extent to which they harmonise mutually exclusive options, and, as such, harmonise the expected effects.

This distinction indicates a lack of understanding of the nature of governance, which in its essence entails an approach to planning that is based on communication and collaboration, where decisions are made within a broad arena of stakeholders. This means that conflict lies at the root of policy governance, and that policymaking entails searching for ways to align different and often mutually exclusive objectives. All policies should therefore share the same structure, regardless of their purposes, as this structure ought to reflect the consensus arrived at by the stakeholders involved in each particular policymaking process. Further, this means that the proposed categorisation of policy documents by purpose is not rooted in methodology and is, as such, redundant.

Action Plans elaborate strategy documents/plans and assume their goals, objectives, and performance indicators without modification. The proposed Law envisages the following content of an Action Plan: activities to attain objectives; periods for the performance of these activities; funds required to implement them; responsible institutions; and relationship with legislation. However, communicative and collaborative policymaking also entails shared responsibility for policy implementation. This means that any activities set out in an Action Plan must clearly define the stakeholder groups and their specific (organisational and financial) mode of participation in implementing a policy. Each public policy ought to have an Action Plan as its constituent component.

4.4. Definition of stakeholders in public policy governance

Under the proposed Law, policymaking is the exclusive competence of the public sector. The envisaged legislation sets out the stakeholders that make public policies by enacting them (Parliament, the Government, and local authorities), and lists other stakeholders whose remits allow them to take part in governing the public policy system but not to make policies themselves (public authorities and services of the central Government, and the authorities and services of local governments). The proposed Law recognises three categories of stakeholders, all of whom come from the public sector: proposing stakeholders, policymaking stakeholders, and implementing stakeholders. Policymaking stakeholders are also responsible for formally proposing policies.

This structure of stakeholders in the policy governance process is not in line with the concept of governance and the principle set forth in Article 11 of the Law proposal that concerns governance of the public policy system and that promotes

the 'principle of equality and partnership, which entails policymaking through a transparent and consultative process, whereby the development and implementation of planning documents, as well as policy impact assessment and performance evaluation, are subject to transparent consultations involving all stakeholders and target groups, including associations and other civil society organisations and scientific and research organisations, with care being taken to ensure the exercise of individual legal and other interests of all stakeholders and target groups whilst at the same time safeguarding public interest' (Article 3).

The portion of the Law proposal that mandates consultations at all stages of public policy system governance does provide for the involvement of other sectors in governing the public policy system, but this is an exception rather than the rule. The 'public authority responsible for policy co-ordination' is allowed to 'propose to the public authority responsible for proposing a public policy to include certain stakeholders and target groups in the working group tasked with developing a public policy document' (Article 35).

In principle, governance of the public policy system entails a collaborative and communicative approach and the involvement of all sectors (public, private, and civil) in policymaking. Consensus established through this process places the public interest and the value framework of society at the heart of development-oriented policymaking.

4.5. Definition of the public policy governance process

The public policy governance process is outlined in the chapter of the proposed Law entitled 'Public Policymaking and Implementation Procedure', and comprises a set of activities to prepare, plan, adopt, and implement public policies, assess their impact, evaluate their performance and according to results improve the public policy. Although co-ordination and reporting are integral parts of the public policy governance process, their actual roles are not clearly defined. Co-ordination requires equal treatment of participants in the decision-making process, which the proposed Law does not envisage. Reporting is a constituent part of the provision of information to stakeholders, and serves to ensure sound decision-making. The position and purpose of reporting (provision of information), as envisaged in the proposed piece of legislation, is such that it is essentially made an ancillary activity in policy governance, and one that is primarily geared towards securing procedural transparency.

5. CONCLUSION

Any attempt made within the scope of institutional reform to establish the entire process of governing the public policy system will have a fundamental bearing on the repositioning of spatial and urban planning practice in Serbia. This will challenge the status that this traditional practice has hitherto enjoyed – that of the undisputed creator of the framework and strategic directions of spatial development. Once the proposed Law is enacted, current informal strategic planning practice will assume the role of the key stakeholder of policy in this field. Public policy documents will in the future determine the value framework and priority objectives of spatial development.

A major innovation introduced by the Law proposal is its treatment of policymaking as a complex process that must be governed. This entails the establishment of a clear decision-making procedure within a set of complex problems dominated by two key aspects: the regulation of duties in policy governance, and mode of selecting solutions. The crucial elements for regulating stakeholders' duties seem to have been clearly recognised: these are public policies, the stakeholders themselves, policy governance, and the harmonisation of public policies with other systems. What we believe to be problematic is (a) the unnecessarily over-specified structure and content of planning documents, and (b) their terminological inconsistency and mutual misalignment. Also missing is an initial assessment of the public policy system at a general level, which would avoid needless repetition and vagueness with regard to its various elements.

In addition, the mode of selecting solutions, as envisaged in the proposed Law, is at odds with its declared orientation towards good governance and decision-making principles. Broad-based stakeholder dialogue is not institutionalised as a means of resolving conflict between the various sides and interests in the policymaking process. The public sector plays a dominant role in initiating, formulating, and implementing public policies. Moreover, the proposed legislation does not recognise the value of an integrated approach to policymaking either, which ought to involve both horizontal and vertical inter-sectoral co-operation. This means that financial support for policy implementation has remained in the public sector and is provided through a parallel system.

Nevertheless, we believe that the proposed Law constitutes a huge step ahead in the field of public policy and that it fundamentally alters how decisions are made that are important for the development of Serbia's society as a whole. For spatial development policies, this means moving the decision-making arena firmly into the political sphere, where social issues take centre stage. Indirectly, planners become mere participants in the decision-making process, just one of the many

stakeholders allowed to advocate their interests. This obliquely introduces the collaborative and communicative planning paradigm and institutes dialogue as a mode of adopting spatial decisions, which will result in the development of a multitude of new instruments for professional action (Čolić et al., 2017).

The value framework and principles promoted by the Law proposal – despite substantial inconsistencies with their incorporation into procedures – are a step towards the institutional transformation of the system and take Serbia, and its planning profession, into the circle of European democratic communities.

However, further improvement of the public policy governance system should be carried out through a wide debate, primarily with the professional public and the academic community. This kind of practice, in addition to being the very foundation of good governance, enables learning through dialogue and leads to the building of common knowledge. This is of particular importance in situations where radical system changes are made, where changes cannot be imposed from outside, but must be carried out with the vigilant attention and dedication of those operating within that system.

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