

PART II – SPATIAL PLANNING AND LAND MANAGEMENT

Chapter IV

SPATIAL PLANNING AND URBAN DEVELOPMENT

A. LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK

Legal framework

Spatial planning is regulated by urban legislation. The first urban law was “On the Principles of Town Planning”, which was adopted in 1992. The law was meant to delegate responsibilities for spatial and urban planning between authorities. In 2000, another urban law was adopted, “On the Planning and Development of Territories”, which regulated urban planning documentation at other levels.

Law “On the Principles of Town Planning” No. 2780-XII of 16 November 1992 (latest amendments: No. 3038-VI of 17 February 2011, No. 4220-VI of 22 December 2011 and No.5459-VI of 16 October 2012)

This law regulates land issues in town planning and creates a town planning cadastre for settlements. The law also sets out the liability for violations of laws on town planning.

According to the law, town planning is an activity of state bodies, bodies of local self-government, enterprises, establishments, organizations, citizens and unions of citizens related to the creation and maintenance of a full living environment. Town planning activities include:

- Forecasting the development of settlements and territories
- Planning, building and other use of territories
- Designing and building of town planning objects
- The construction of other objects
- The reconstruction of historical settlements together with the preservation of the traditional character of the environment
- The restoration and renewal of objects of cultural heritage
- The creation of engineering and transport infrastructure

Law “On Architectural Activity” No. 687-XIV of 20 May 1999 (latest amendments: No. 4220-VI of 22

December 2011, No.5459-VI of 16 October 2012 and No.5496-VI of 20 November 2012)

This law defines the legal and organizational framework for the implementation of architectural activities. It aims to create favourable living conditions and ensure reliable, robust and safe houses, constructions and other objects of architectural activity.

The authorized bodies on city planning and architecture are the:

- Central executive body that provides public policy in the field of architecture
- Central executive body that implements public policy in the field of architecture
- State architectural-building control body
- Executive body of the Autonomous Republic of Crimea on architecture
- Structural units of oblasts and Kyiv and Sevastopol city administrations

The law states that entrepreneurial activities related to the creation of architectural objects is subject to licensing. However, citizens who have a qualification certificate to conduct entrepreneurial activity related to the creation of objects of architecture may do so without the license. These certified persons have personal stamps and are liable for the improper performance of works or services. Information about the person who received the qualification certificate is entered in the state register of certified persons.

General Scheme for the Planning of the Territories of Ukraine, adopted by the law No. 3059-III of 7 February 2002 (amendments: No.5459-VI of 16 October 2012)

The General Scheme sets out general land-use and the spatial planning framework. It defines priorities and conceptual solutions to planning and use of state territories. It ensures the sustainable development of human settlements, the development of industrial, social and engineering-transport infrastructure and the establishment of a national ecological network.

The provisions of the General Scheme are in accordance with the principles embodied in the documents of the Second United Nations Conference on Human Settlements (Habitat II) and the corresponding recommendations of the UNECE and Council of Europe.

Law “On Promotion of Development of Regions” No. 2850-IV of 8 September 2005 (latest amendments: No. 3275-VI of 21 April 2011, No. 4731-VI of 17 May 2012 and No. 5463-VI of 16 October 2012)

This law establishes the mechanisms for state support to promote regional development and overcome depression in territories. The mechanisms involve promoting more efficient use of regional resources and combining state and local resources to address local challenges.

According to the law, a depressed territory is a region (or its part, district or city) where the development index is the lowest among territories of similar type. The monitoring of development indices of regions, districts or cities is conducted by the central executive power on economic policy, the Council of Ministers of the Autonomous Republic of Crimea and the oblast or city administrations (for Kyiv and Sevastopol). These three bodies conclude an agreement on the measures that should be taken to stimulate regional development.

Based on the results of this process, the Cabinet of Ministers of Ukraine determines:

- The territories granted the status of depressed and sets their boundaries
- The indicators for which the territory receives the status of depressed
- The measures that the State should take to promote the development of a territory to overcome its depressed state and the procedure for implementation

Law “On Prevention of the Impact of the Global Financial Crisis on the Development of the Construction Industry and Residential Construction” No. 800-VI of 25 December 2008 (latest amendments: No. 3038-VI of 17 February 2011, No. 4220-VI of 22 December 2011 and No. 5459 of 16 October 2012)

This law established guarantees for investors who provide funds for the construction of objects of architecture on the territory of Ukraine which have been halted because of a lack of liquidity.

The Law:

- Stipulates that funds from the state budget will be allocated for the completion of unfinished residential construction

- Establishes a method of providing loans to developers in order to complete housing projects and thereby fulfill their obligations to investors
- Protects loans for financing residential property from increases in interest rates
- Establishes a procedure for the construction of affordable dwellings for lower-income individuals, partially financed by the State

The law also establishes obligations by lessors regarding the renewal of leases of land plots of state and communal property on the terms and conditions of the original lease agreements. This applies to land where residential housing is being constructed and where building and assembly work is occurring.

Under this law, developers are exempt from contributing to the engineering, transport and social infrastructure development of settlements, leading to a decrease in the cost of the construction.

Furthermore, the law provides the right to purchase rental housing. The implementation of this provision is through resolution of CMU No. 274 of 25 March 2009 (amendment No. 1390 of 28 December 2011), which sets the procedure for purchase. According to the lease agreement, one party (the lessor, a company) awards a housing unit to another party (the lessee, a tenant) for a long term payment period of 30 years; once the lease payments have been paid in full, the housing becomes the property of the tenant. A written lease agreement must be certified by a notary and registered with the authorities.

This law primarily aims to solve problems in the residential housing construction sector and does not apply to commercial construction.

Law “On Construction Standards” No. 1704-VI of 5 November 2009 (latest amendments: No. 4220-VI of 22 December 2011, No. 5459-VI of 16 October 2012 and No. 5496-VI of 21 November 2012)

The law defines the legal and organizational principles for the development, approval, registration and application of construction standards. These are compulsory in construction, town building and architecture and are approved by a standardization body.

The law defines two types of construction standards:

- National construction standards, approved by a central executive authority for construction
- Industry-specific construction standards, approved by a ministry in the absence of national construction standards for a certain of building, or where there is need to establish requirements for the construction of certain types of buildings

Law “On Regulation of Urban Planning Activities” No. 3038-VI of 17 February 2011 (latest amendments: No. 5059-VI of 5 July 2012, No. 5459-VI of 16 October 2012 and No. 5496-VI of 20 November 2012)

This law establishes rules and procedures in city planning and is aimed at sustainable development of territories based on the interests of the State, the community and the private sector.

The law changed more than 100 articles of 23 laws, aiming to simplify and improve all aspects of urban planning. The main innovations of the law are:

- Change in the concept of regulation: the developer, not the controller, will be responsible for compliance with urban planning regulations.

The law allows the gradual transition from licensing to certification for certain types of construction. This means that contractors, instead of getting a paper license for every step of the construction, will have the responsibility to assure the stability, reliability and quality of buildings.

- Simplification of urban planning documentation and the process of its approval.

Urban planning documentation was shortened from five levels to three levels, retaining the general plan, detailed plan and zoning.

Some site designs will no longer be subject to urban restrictions. Among these are: designs catering to areas not exceeding 200 m²; renovations of office and commercial premises; replacements of linear structures; restorations of facades of residential and non-residential buildings; and installation of pipelines of low and medium pressure.

Projects are to be developed with the obligatory participation of an architect who has the appropriate qualification certificate. They are then certified by the personal seal of this qualified architect. The project documentation for the construction of objects designed according to urban conditions and building restrictions is not subject to approval by the relevant executive authorities, local self-government authorities, cultural heritage protection authorities, sanitary-epidemiological services or environmental authorities. Such projects are approved by the developer alone.

Project assessment will be done through a “one-stop shop”. One organization, instead of six organizations as before, will be responsible for testing projects for compliance with regulations on, inter alia, energy saving, labour protection, environment and fire safety.

The law defines the categories of construction projects subject to mandatory state expertise: buildings of complexity category IV or V (multi-storied buildings

and buildings with complicated technical solutions); objects built on territories with complex geological and anthropogenic conditions; and real estate constructions that are partially public-funded.

- Reduction in the number of steps to obtain permits and approval for construction from 93 to 23 steps. The procedure for obtaining permits was reduced from 416 to 60 days. The period for the declaration of commencement of construction work and the issuance of a permit for construction work is now set at five and 10 days, respectively.
- Introduction of a new legal framework for building private housing. A residential building with up to two floors and an area of up to 300 m² will be allowed to be built based on a simplified construction passport.

Law “On Amendments to Certain Legislative Acts of Ukraine to Strengthen Accountability and Improve State Regulation in the Field of Urban Development” No. 4220-VI of 22 December 2011 (with amendments No. 5496-VI of 20 November 2012).

This law increased the penalties for violating urban planning and construction regulations. In general, penalties are imposed due to non-compliance and non-fulfillment of requirements set out in legislation, construction regulations and state standards. The penalty will depend on the complexity class of the object constructed. The violator pays a fine equivalent to five to 900 times the minimum wage and pays for any damages resulting from the violation.

The law also defines the procedure for imposing the penalty and the procedure for appealing to the administrative authorities and the court.

The law introduced amendments to the 1994 law “On Liability of Enterprises, their Unions, Institutions and Organizations for Violations in the Urban Planning Sphere” in line with these changes. This law is now “On Liability for Violations in the Urban Planning Sphere”.

The law also amends certain provisions of the “Code of Administrative Offences”, making sanctions tougher for construction-related offences. There will be an administrative liability for failing to keep the unified state register of citizens requiring improvement of housing conditions and for failure to comply with the legal requirements or regulations of officials from the State Architectural and Construction Inspectorate. Moreover, there are some changes in Articles 96 and 96-1 of the Code regarding legislative requirements, construction regulations, state standards during construction and the legislation for building planning and development.

Urban Planning Code (draft legislation)

On 30 June 2010, Parliament adopted the draft “Urban Planning Code” in its first reading. The draft code was listed among the draft legal acts to be prepared and finalized for consideration during the tenth session of the Verkhovna Rada of Ukraine at the Sixth Convocation (resolution of the Verkhovna Rada No.4344-17 of 6 July 2012). However, the draft code was not finalized at the Sixth Convocation and is not even listed among the draft legal acts for consideration by the Verkhovna Rada of Ukraine at the Seventh Convocation (resolution of the Verkhovna Rada No.158-18 of 2 April 2013).

The draft code supersedes the following laws:

- The 1992 law “On the Principles of Town Planning”
- The 1999 law “On Architectural Activity”
- The 2000 law “On the Planning and Development of Territories”
- The 1994 law “On Liability of Enterprises, their Unions, Institutions and Organizations for Violations in the Urban Planning Sphere”
- The 2010 law “On Urban Planning Provisions”

When the Urban Planning Code comes into force, these laws will be repealed.

The Code consists of 9 sections, 23 chapters and 162 articles establishing optimal living conditions for the population, provision of the steady development of settlements and coordination of state, public and private interests.

The Code stipulates that the architectural and urban planning council is formed by: the Council of Ministers of Crimea; oblast, Kyiv and Sevastopol city administration; rayon state administration; and executive bodies of the city council. This council will review urban planning documentation, architectural projects located in historic areas and projects in high-rise buildings.

Once adopted, the Code will establish the general legal and institutional framework for planning and building in Ukraine. It will eliminate urban planning feasibility studies (substantiation, validation and justification), which are major bottlenecks slowing down the updating of town planning documentation. The draft code provides free public access to a digital database of state building standards and approved town planning documentation. The draft regulates not only urban planning documentation by a respective project organization, but also the terms of its approval by the client.

Policy framework

1999 Concept of Sustainable Development of Settlements

The resolution of the Parliament No. 1359-XIV of 24 December 1999, adopted the “Concept of Sustainable Development of Settlements”. The Concept is envisaged for the long term (15 to 20 years). It defines the main directions of state policy on sustainable development of human settlements and legal and economic methods of implementation. The provisions of the Concept are consistent with the principles of Habitat II and the corresponding recommendations of UNECE and the Council of Europe.

There are no reports on the implementation of the Concept.

2001 Concept of State Regional Policy and the 2006 State Strategy for Regional Development for the period until 2015

The “Concept of State Regional Policy” was established in 2001 with the adoption of the decree of the President No. 341. It outlines the national level long-term goals and priorities for regional development. On 21 July 2006, the CMU issued resolution No. 1001 adopting the “State Strategy for Regional Development until 2015” to provide an operational framework for implementing the State Regional Policy. The State Strategy contains regional development policy programmes at national and regional levels with specific strategic objectives long-term priorities and key implementation strategies. The CMU is responsible for coordinating the implementation of the State Strategy and ensuring that state policies are aligned with regional development goals.

Since 2008, the CMU has adopted a yearly action to implement the State Strategy.

Institutional framework

Ministry of Regional Development, Construction, Housing and Communal Services

MinRegion was established on 31 May 2011 (decree of the President No. 633/2011 with amendments: No. 742/2011 of 08 July 2011) by merging the Ministry of Regional Development and Construction and the Ministry of Municipal Economy. It is a central executive body responsible for the development and implementation of state policy in housing, construction, architecture and urban planning, defining the priorities for each area.

In particular, MinRegion is responsible for the formulation and implementation of national policy covering:

- The improvement of territorial distribution of power, the administrative and territorial structure and the development of local self-governance
- Construction, architectural and urban planning activities, the construction materials industry and the preservation of the traditional character of settlements
- The municipal economy, housing policy, landscape planning, floral-decorative seed farming, household waste disposal and the technical inventorying of property
- Architectural and building control and control in housing and utilities
- The provision of technical regulation in the field of construction, municipal engineering, building materials, housing and communal services

State Architectural and Construction Inspection

The Inspection was established on 8 April 2011 by merging the State Architectural and Construction section of the Ministry of Regional Development and Construction and the State Housing Inspection of the Ministry of Municipal Economy (decree of the President No. 439, with amendments No. 633 of 31 May 2011, and No. 742 of 8 July 2011).

The Inspection is responsible for:

- State control over compliance to legislation, standards, regulations, rules, orders on architecture, construction and municipal economy
- Licensing and registration functions in construction and activities related to the creation of architectural objects

Hierarchically, the Inspection answers to MinRegion. The Head of the Inspection is appointed by the President, based on the nomination of the Prime Minister following the proposal of MinRegion.

B. SYSTEM FOR GRANTING PERMITS FOR PREPARATORY-CONSTRUCTION ACTIVITIES AND ACTUAL CONSTRUCTION WORK

The procedures for the approval of construction work are established by CMU through resolution No. 466 of 13 April 2011 (latest amendments, No. 43 of 8 January 2012, No. 148 of 27 February 2012 and No.653 of 11 July 2012).

The resolution approved the:

- Procedure of preparatory works
- Procedure of construction works

- List of facilities, the construction of which is carried out after the notification of commencement of construction works

The procedure of preparatory works consists of two documents:

- Notification on the commencement of preparatory works
- Declaration on the commencement of preparatory works

The procedure of construction works consists of three documents:

- Notification on the commencement of construction works
- Declaration on the commencement of construction works
- Permit to execute construction work (hereafter, construction permit)

These documents authorize construction work and remain valid until the construction is completed, on the condition that a document confirming the property right or management right for the land plot or a superficies agreement exists.

Notification on the commencement of construction works

Prior to construction work, a written notification (the template for which is annexed to the procedure of preparatory works), together with the required documents, should be sent by the customer to a corresponding regional office of the State Architectural and Construction Inspection.

Registration of declaration on the commencement of preparatory works

The declaration shall be registered at the inspection office for constructions belonging to the complexity classes I to III. Two originals of the declaration should be sent by the customer to the appropriate regional office of the State Architectural and Construction Inspection. The customer is liable for the completeness and accuracy of data entered in the declaration.

The inspection office checks the completeness of data entered in the declaration and registers it within five business days from the day it has been received. Following its registration, one original of the declaration is returned to the customer and the other remains with the inspection office.

The procedure for the notification and declaration on the commencement of construction works is much the same. One important difference is that if the inspection

has not registered a declaration of commencement of construction work (or has not decided to decline its registration), the right to perform construction work occurs on the eleventh day from the date on which the declaration was registered or returned. In such cases the declaration is considered as registered.

Construction permit

A construction permit is issued to the customer by the State Architectural and Construction Inspection for construction projects belonging to complexity classes IV and V. This is issued free of charge by the relevant inspection office. For objects located in several administrative or territorial units, it is issued by the Central Office of the State Architectural and Construction Inspection.

The inspection office shall grant a permit or refuse its issuance within 10 days from the day the application was registered. If it is refused, the inspection office must send the applicant a letter explaining the reasons.

If the inspection office has not issued a construction permit (or has not decided to decline its issuance) within the 10 days, the customer can appeal to the inspection office. The inspection office has 10 more days to either issue a permit or decline its issuance. If the inspection office still fails to make its decision within these 10 days, the permit is considered as granted. In this case, the customer has the right to begin construction from the tenth working day after the appeal was registered.

A test version of the automated permit system was developed and is now in beta testing.

C. URBAN PLANNING DOCUMENTATION

There are three levels of urban planning documentation:

- National (the general scheme for territory planning and planning schemes for parts of the country)
- Regional (the scheme of territory planning of the Autonomous Republic of Crimea, oblasts and rayons)
- Local (general city plans, zoning plans and detailed plans)

The procedure for urban planning documentation was approved by resolution of CMU No. 548 of 25 May 2011 (with amendments No. 148 of 27 February 2012). General city plans are approved only after public hearings. The time allocated cannot exceed 60 calendar days for urban planning documentation of national and urban levels and 45 days for general city plans.

The procedure for the development of urban planning documentation was approved by the order of MinRegion No. 290 of 16 November 2011. The Verkhovna Rada of the Autonomous Republic of Crimea and oblast, rayon and city councils are authorized to commission the development of urban planning documentation which can be developed by licensed entities. Urban planning documentation is then approved by the decision of customers and is subject to a positive appraisal by state experts.

D. SPATIAL DEVELOPMENT TRENDS AND PLANNING RESPONSES

Regional impacts of development

Dealing with the impact of socioeconomic and urban activities has been a difficult challenge for the Government. The problem manifests in:

- Growing regional disparities
- Unbalanced urban development
- Rapid physical decline (including infrastructure and housing problems)
- Intensification of uneven urban living and residential conditions
- Environmental degradation

Government efforts since 2005 towards strategic socioeconomic planning and financing and the simplification of urban development control are expected to remedy the situation, but further steps in the field of regional planning should be considered.

Today, regional planning is struggling to address complex socioeconomic challenges (e.g., globalization and increased competition, demographic changes, environmental concerns and social inequalities) and to improve regional development, because planning reform has not been prioritized by the Government until recently. Other European countries are facing a similar situation – they have adopted a spatial-planning approach to improve their systems of regional planning and support their efforts towards strategic and sustainable socioeconomic and urban development.

It is crucial for the Government to achieve balanced regional development or provide a more even distribution of development. A better integration of sectoral actions may be achieved if they are guided towards common objectives for geographic development. Therefore, in undertaking further actions on regional and urban development, greater attention must be given to geographic factors at an early stage. These actions will require clear spatial development guidelines.

The need for regional development mechanisms to support state strategic actions in the country's regions and subregional territories is recognized by some regional development experts working in Ukraine with EU partners. The adoption in 2005 of the law "On Stimulation of Development of Regions" and the "State Strategy for Regional Development until 2015" marked the beginning of systematic thinking on regional disparities. The Strategy states that regional development policy should develop competitive conditions that facilitate dynamic and balanced regional economies. However, the regional strategies that were developed were only declarative in nature and did not include a plan for implementation. In addition, an independent regional coordinating body is needed. The scope of the criteria needs to be widened to assess depressed regions.

Importantly, if evaluated against European regional development practice, the regional strategies represent aspatial attempts involving a set of sectoral programmes with no consideration of how sectoral activities would proceed within regional territories. Neither the Law nor the Strategy considers the overall situation of Ukraine's regions and the development opportunities for individual regions. In other words, the key role of regional planning in coordinating development efforts needs to be better recognized.

Box 1 provides further discussion of regional development in Ukraine and points at recent, successful EU-funded pilot projects at the regional level involving the formulation of more complete and feasible regional strategies, including an essential geographic component.

Ukraine's system of regional planning

Recent, significant changes to the national system of regional planning and urban development are a government response to outdated and cumbersome arrangements. At the heart of this initiative is the plan to attract private investment to the construction industry and bring it out of crisis. The reforms have largely involved legislative and regulatory improvements including new territorial plans: the new 2001 General Scheme of Territorial Planning of Ukraine; new regional territorial plans; and new general plans for some cities.

Ukraine's legal and regulatory planning and development framework now covers the most important areas (see discussion in previous sections of this chapter); however, it requires further development. Subnational planning authorities and professionals point out that the existing multi-tier system of planning documentation, i.e., regional plans, is correct but it remains excessively detailed and prescriptive and therefore very difficult to comply with in practice. There is a need for simplification and

flexibility in decision-making and planning to ensure that the system effectively captures the development dynamics in regional and subregional contexts.

Ukraine has inherited elaborate regional planning, but the preparation of regional plans represents a multilevel physical consideration of land use to meet the country's socioeconomic and urban tasks. Given today's complex development and decision-making situation, this approach to planning allows almost no flexibility or stakeholder cooperation.

Regional planners are not often involved in the preparation of national strategic documents; instead, they use them as blueprints for drawing their plans. Figure 8 considers the place of regional planning in the evolving system of strategic state planning in Ukraine. It shows that the relationship between regional planning and other national development activities goes only one way.

On the one hand, planners are not expected to provide strategic regional development policies and instruments to coordinate the work on national programmes (e.g., to ensure better regional effects). On the other hand, with no understanding of regional development potential, it is also difficult to implement development activities. Planners often say that some socioeconomic programmes are difficult to put into practice due to regional development constraints.

The existing land-use plan-making practice restricts planners' ability to deal with development dynamics within the country's oblasts. The plans often become out of date or ignored. Furthermore, a lack of cooperation among stakeholders on regional development (i.e., cooperation based on some agreed geographic development criteria) generates conflict, contributing to non-compliance with the planning documentation.

For example, at the national level, the 2001 General Scheme of Territorial Planning of Ukraine has lost its relevance in the last two years. This is partly due to the abolition of the Co-coordinating Council on the Implementation of the General Scheme for Territorial Planning, which allowed cross-sectoral cooperation. This has obviously affected the cross-sectoral effect of the national planning document and complicates the location of projects of national interest, like a hydroelectric power plant or national-level logistics centre.

Planning reform in Ukraine is an essential step in reviewing the country's system of regional planning. However, planning authorities and professionals in Ukraine also highlight the importance of changing the planning philosophy and culture and giving better recognition to planning as an effective tool to address the current development situation and deliver

Box 1. Geographic coordination of a regional development strategy: The case of Khmelnytskyi oblast

While almost all of the regions of Ukraine have already formulated their socioeconomic strategies, difficulties remain with their implementation. The strategies remain declarative or advisory documents that provide a policy framework for state funding of regional development programmes; they include a “regional agreement”. In practice, the implementation of the agreement has been difficult due to political and economic reasons.

According to the Khmelnytskyi Oblast Council, since 2008, the National Regional Development Agency (NARDA) of MinRegion, with the technical and financial support of the EU, has been assisting some oblasts with their regional strategies in response to the recent state strategic development initiative. The completed regional development strategy of Khmelnytskyi oblast is seen as a best practice within the framework of NARDA-EU cooperation. In contrast to existing regional strategies prepared since 2005, the strategy builds on EU practices and involves an analysis of socioeconomic dynamics and geographic trends influencing the development of the oblast. It includes a delivery plan and promotes integration and cooperation among government agencies at all levels, as well as sectoral interests on matters pertaining to the region’s development. Most important is the use of integrated place-based approach, which takes advantage of the oblast territorial potential to facilitate and redistribute activities within the region. It involves a number of geographic mechanisms focusing on strengthening the growth centres as engines for driving development, improving the economic and social accessibility of rural peripheries, infrastructure and transport capacity and other goals. In other words, the strategy is based on a continuous assessment what the region can offer and how it can adapt to external opportunities like new markets, international transport corridors and the development of bordering regions. It is also based on a joint effort involving about 120 different stakeholders of the region.

sustainable development. Further reforms in the national system of regional planning will need to focus on shifting land-use planning practice towards more strategic geographic planning and cross-governmental activity. The latter should seek to balance conflicting interests in the triangle of relationships between the economy, the people and the environment. It should go beyond traditional physical planning to integrate physical and land-use planning and the development of policies with other policies, activities and programmes that have a bearing on land-use (e.g., economic development, housing, climate change and social cohesion) and the nature of places and their performance.

National Governments in Europe are adopting a new approach to spatial planning, which focuses on space-mediating and place-making activities. Spatial planning supports the coordination and integration of the spatial impacts of different government strategies and policies in sectors like housing, transport, energy and industry through a regional development strategy (see a schematic representation of such integration at the oblast level in Figure 9). This coordination covers all levels of planning and the interaction among all stakeholders.

Spatial planning operates on different scales through national and regional strategies to improve local systems of urban and rural development. This is achieved through better design and organization of towns, villages and neighborhoods, taking into account environmental considerations. Spatial planning acts within the context of national sustainable development strategies.⁶³ It operates through a set

⁶³ In recent years, the Ministry of Ecology of Ukraine has made attempts to formulate the national strategy for sustainable development strategy.

of instruments and tools, including laws, policies, guidance, plans, procedures, incentives and sanctions, to ensure “effective and fair management of spatial development on the basis of agreed criteria”.⁶⁴

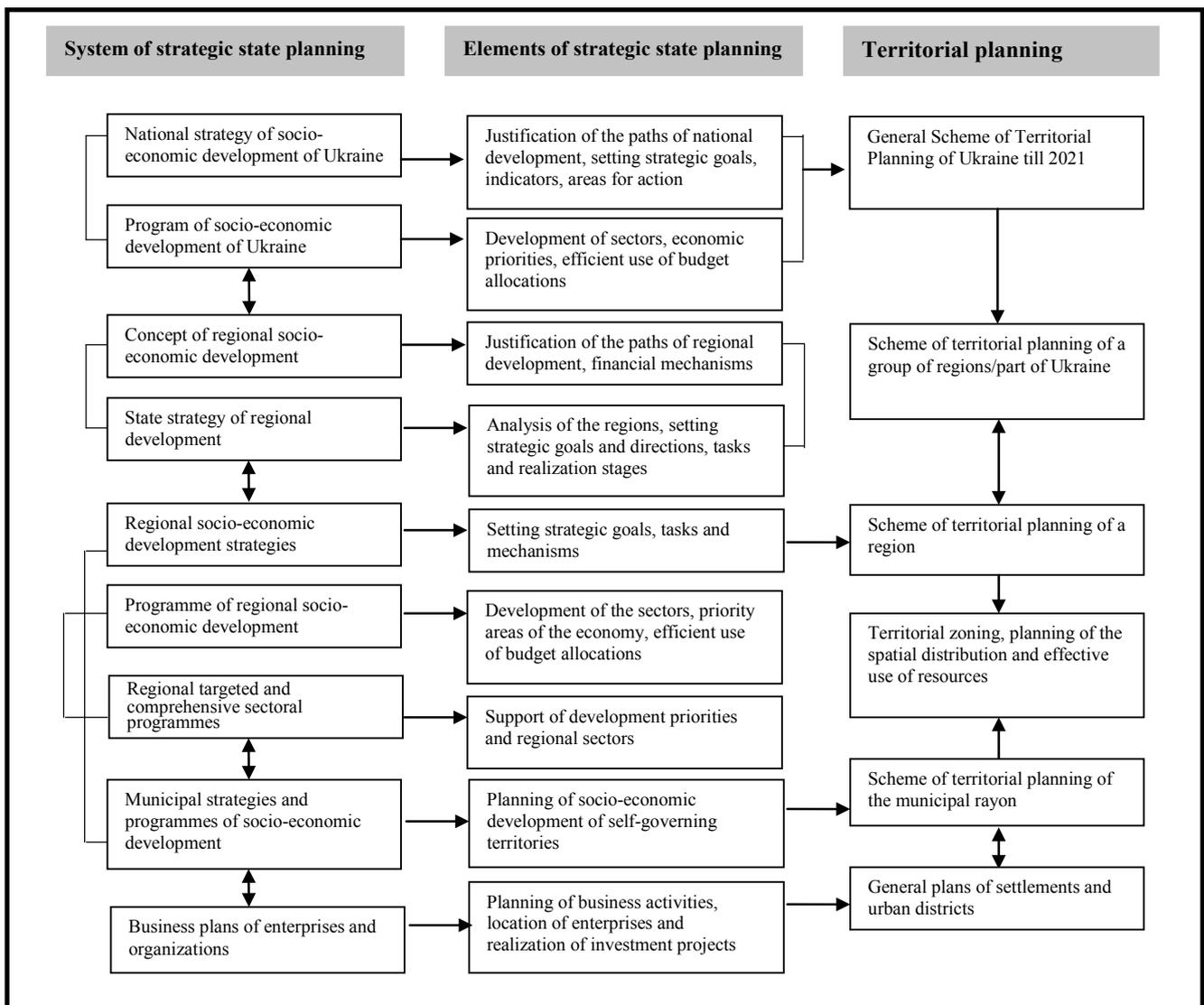
Elements of spatial planning at the local level

It is crucial for Ukrainian cities to have a new general plan, following the new European practice of urban planning which allows a more dynamic type of urban development to facilitate socioeconomic activity for city development. The Kyiv City Administration has been working on a new general plan for the city since September 2008 to replace the current one, which was ineffective in guiding the city’s development. The new plan is being prepared in cooperation with the Kyiv State Administration, which has been working on a new socioeconomic development strategy for the city. The draft “Kyiv Development Strategy until 2025” provides a visionary strategic document defining the key priorities, targets, actions and budget for socioeconomic development of Kyiv. The prospective general plan of Kyiv is now integrated as a key instrument of the Strategy.

In April and May 2012, the first and second drafts of the new Kyiv general plan underwent public scrutiny until 1 December 2012. The general plan is now being considered for submission to the city council. The plan promotes sustainable regional development and rational use of the city’s limited land resources. In particular, it aims to:

- Address the issue on uneven development of engineering and transport infrastructure

⁶⁴ UNECE, *Spatial Planning: Key Instrument for Development and Effective Governance* (Geneva: United Nations, 2008).

Figure 7. Territorial planning in the national system of strategic planning

Source: adapted from Evgeniy Zhirnel, “Пространственное планирование как фактор оптимизации управления регионом (на примере Республики Карелия)” (Spatial planning as a factor of optimizing the management of the region (the case of the Republic of Karelia), Problems of Modern Economics 2 (22), 2007

- Improve the quality of life, improve the ecological situation and reduce greenhouse gas emissions
- Increase the attractiveness of Kyiv to tourists
- Reduce social inequalities within city boundaries
- Reduce dependence on individual car use

The plan includes a balanced territorial development of Kyiv utilizing a number of sustainability principles and approaches, including compact city, polycentricity and multi-functionality, green city, the city of culture and business, balanced metropolitan development (“from general to specific” spatial organization such as the joint projects between Kyiv city and Kyiv oblast), responsibility to future generations and strategic plan-led urban development. Figure 11 shows the strategic territorial planning and socioeconomic development strategy

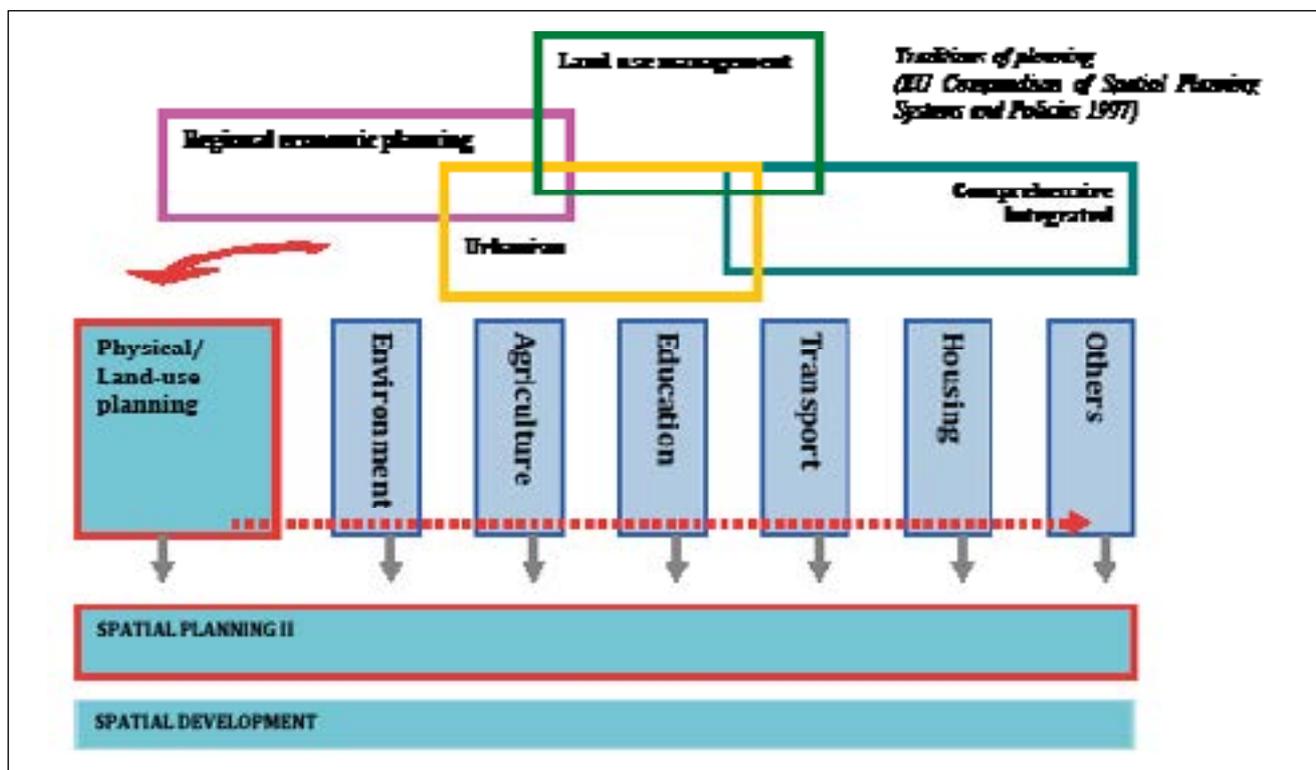
of Kyiv are and their inter-linkages in overall state strategic planning.

Benefits and challenges of the recent planning reforms

The recent changes in planning regulations on development management, control and enforcement (law No. 3038-VI of 17 February 2011) bring many positive effects. In particular, the new provisions:

- Extend the power of local councils to approve urban developments
- Establish personalized liability for damaging results of violation of building regulations
- Allow a substantial reduction in development control procedures (from 465 to 90 stages)

Figure 8. From land use planning to spatial planning: securing a spatial integration of different strategies and policies (regional level)

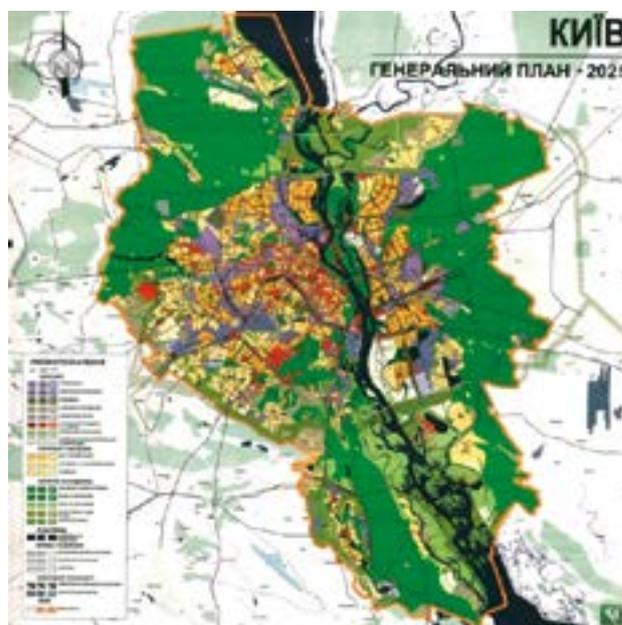


Source: Vincent Nadin, "Spatial Planning and Territorial Development at the Regional Level". Available from <http://www.qub.ac.uk/research-centres/span/FileStore/StrategicPlanning/Fileupload,152838,en.pdf> (accessed 5 February 2014).

- Set the requirement for a unified urban development cadastre and zoning
- Allow declaration-based preparatory and construction works
- Introduce the principles of “silent agreement”, “one-stop shop” and “organizational unity” in the development-permit application system
- Ensure the private sector’s support for social and physical infrastructure
- Clarify the development and approval of general plans as basis for development decisions
- Simplify the commissioning of constructions of categories I to III
- Ensure public access to information on urban development

The new planning regulations still require further development. In particular, there is no clear procedure for dealing with unauthorized constructions or for public hearings in cases of compulsory purchase of properties. Furthermore, the new provisions on plans with indefinite time-horizon involve risks. While this approach may seem reasonable when local authorities have limited funds for preparing new plans, it fails to ensure strategic planning and provides no time framework for implementation. This may support the

Figure 9. Kyiv Development Strategy until 2025



status quo rather than stimulate changes. Indefinite general plans lack clarity on what and when developments will happen. As such, given today’s dynamic socioeconomic situation, indefinite general plans may not be taken seriously.

In general, the new regulations improve development management procedures but their success will depend on further developments in Ukraine's regional planning (e.g., the development of less prescriptive spatial strategies and regional plans as a basis for decision-making and enforcement).

The use of legally binding land use plans or zoning is becoming increasingly popular in Ukraine; they are seen to help make development management more transparent. Zoning helps to avoid an individualistic approach to land development under uncertain and dynamic urban processes; it is increasingly given priority over required work on new general plans. The popularity of zoning in Ukraine stems from what it seems to offer – a regulative tool for planners when old mechanisms become inadequate. However, zoning per se is not sufficient to address the wider scope of development matters. For example, it does not consider issues like social cohesion, economic self-sufficiency and cultural or aesthetic value to ensure more sustainable development patterns. Ukraine has a strong tradition of master planning that needs to be maintained and improved along with zoning activities.

As other countries' experiences show, the development of zoning plans to allocate development rights requires much capacity in the planning system. Zoning plans tend to be rigid and inflexible, although in some cases they remain important, such as in the protection of environmental assets. Zoning

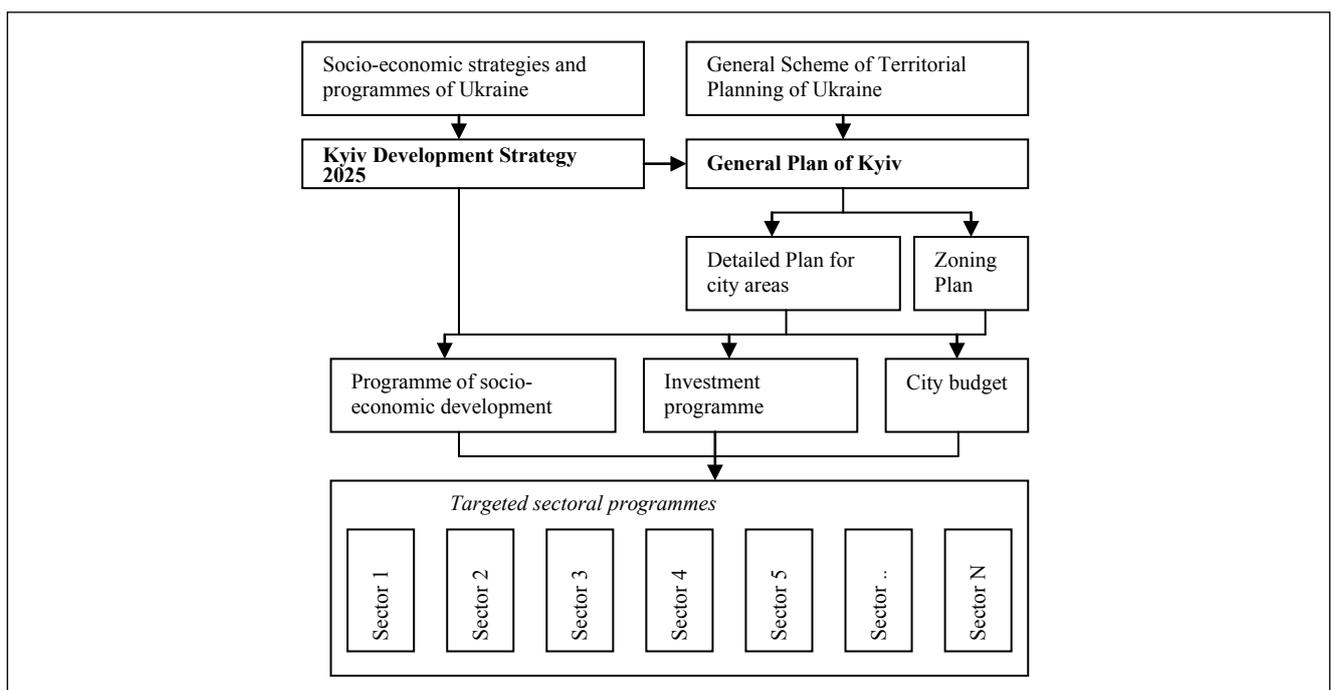
plans are often bypassed by informal agreements or unauthorized developments. A number of other management mechanisms like national codes (energy efficiency regulations or design criteria) are therefore increasingly used in many countries to ensure the quality of development. Less prescriptive guidance, such as control of accessibility and density requirements,⁶⁵ may also be used to allow better coordination between sectoral and land-use activities.

Enforcement of planning regulations can be achieved if based on transparent policies and procedures. This will require the development of strategies, plans and regulations that are not too prescriptive, involve different sectors and are transparent for citizens and investors. Furthermore, firm but legitimate action must be taken concerning unauthorized development (for example, the demolition of illegally constructed buildings). In cases of large illegal developments, there should be a proper evaluation of planning system limitations and the possibility of a retrospective integration of different interests in the process of upgrading service provision to ensure, if possible, more sustainable development patterns.⁶⁶

Planning for housing

The old, integrated approach to housing that linked housing to socioeconomic and urban goals has been abandoned in Ukraine. Yet, contemporary socioeconomic and urban trends and actions in

Figure 10. Strategic territorial planning and socioeconomic development strategy of Kyiv



Source: Draft Development Strategy of Kyiv until 2025.

⁶⁵ Ibid.

⁶⁶ Ibid.

the country affect housing outcomes. Housing developments are also known to have socioeconomic and urban implications. The following are some examples of these important interactions and territorial development effects:

- Ukraine's fast-growing areas have prompted a sharp increase in housing demand and prices. This situation is known to worsen housing affordability and to prompt speculation on the real estate market. Ukraine's mid-2000s housing boom, especially in core areas like Kyiv and the Kyiv, Odessa and Lviv oblasts, has led to housing market volatility and a crisis in the house-building industry and Ukraine's economy as a whole.⁶⁷
- Lack of jobs in declining areas (especially in the east, such as the Dnipropetrovsk, Donesk, Luhansk and Zaporizhia oblasts) has triggered emigration and demographic changes, contributing to mounting disrepair and neglect of dwellings and residential infrastructure in these areas. These trends make it difficult to attract investment, making the areas increasingly dependent on external resources. This situation has exacerbated the polarization of the quality of life in the country and regional disparities.
- People moving out of Ukraine's declining areas put pressure on housing and residential infrastructure in fast-growing areas, contributing to housing shortages and overcrowding in these areas. Overcrowding may have adverse social and psychological effects on people.
- Lack of social housing will have implications for Ukraine's economy and put pressure on salaries.
- If there are social housing projects in the future, social housing in Ukraine is often defined by authorities as one of fairly basic quality and design. However, if social housing is below the average housing quality in the country, it may contribute to social stigmatization and exclusion.
- Housing supply in Ukraine is insufficient to meet the diverse needs of the population. The construction of new dwellings rarely has a wider objective to develop living conditions (by, for example, linking housing to utilities and social infrastructure). Dwellings should be part of self-contained, mixed-use residential areas with good-quality activities and innovative services and infrastructure. The current,

narrow approach will negatively affect residents' well-being.

- Very limited diversity in housing developments in Ukraine has led to the development of 'islands' of good-quality, expensive (and often gated) housing, leading to imbalances in neighborhoods. In discussions of EU urban and social cohesion policy, such practice is widely remarked to exacerbate social inequalities and conflicts.
- The mid-2000s housing construction boom in Ukraine has led to urban sprawl, unbalanced urban development, a shortage of infrastructure and road congestion.

To ensure an integrated approach to housing, the Government should promote better cooperation between planning and housing. The current challenges of the socioeconomic and urban context of housing as well as environmental challenges should be dealt with more effectively. Also, the delivery of housing projects has been somewhat disorganized in Ukraine regarding the instigators' activities and responsibilities. For example, there have been cases where a multi-family dwelling, its utility connections and social infrastructure are finished by the builder, but the local authority refuses to place the utility and social infrastructure on its balance sheet, as such structures are often considered to be very expensive. Local authorities are very reluctant to take responsibility for the structures which were not developed under their control.

Effective planning for housing based on spatial planning principles and practices should be considered by the Government. This approach should help reintegrate housing with socioeconomic and urban tasks, as well as improve governance of housing delivery. In essence, reintegration through spatial planning can be achieved through space-mediating and place-making planning activities⁶⁸ (see also the section "Ukraine's system of regional planning").

Space-mediating actions can help link housing with government initiatives and sectoral interests at different levels through the integration of housing considerations in geographic strategies. This should promote concrete planning and design to achieve an integrated delivery of housing, ensuring well-planned, environmentally-friendly residential areas that meet the diverse housing and everyday needs of Ukraine's population. Figure 12 shows an example of best practice in the EU in using place-making considerations to guide planning towards an integrated

⁶⁷ Global Property Guide, "Ukraine's unexpected rise in house prices, amidst economic slowdown and political tension", 17 May 2012. Available from <http://www.globalpropertyguide.com/Europe/Ukraine/Price-History-Archive/Ukraines-unexpected-rise-in-house-prices-amidst-economic-slowdown-and-political-tension-1241>.

⁶⁸ Royal Town Planning Institute, *A new vision for planning. Delivering sustainable communities, settlements and places. Mediating space - creating place. The need for action* (London, 2001). Available from <http://www.rtpi.org.uk/media/9321/RTPI-New-Vision-for-Planning.pdf> (accessed 5 February 2014).

neighborhood development and deal with the wider socioeconomic and urban context of housing. It considers planning actions along a set of dimensions to achieve a sustainable community.

In adopting EU spatial-planning practices, the Government can calculate and set housing targets as an overarching normative goal for the formulation and implementation of a national spatial planning framework (see Chapter III for the current housing issues in Ukraine). Spatial-planning mechanisms on housing may focus on solutions to problems regarding housing affordability, a housing supply adequate for the population, appropriate location and design, the configuration of new homes and the efficiency of the entire housing development processes. In practice, the national planning framework can support the implementation of housing targets through:

- Good quality housing that is well-designed and built to a modern standard
- A mix of both affordable and market housing (including tenure and price)
- Support for different household types in all urban and rural areas
- An adequate amount of housing to accommodate both needs and demands and improve choice
- Housing developments in suitable locations with good access to community facilities as well as jobs, key services and infrastructure
- A flexible and responsive supply of land which could achieve efficient and effective land use

Spatial planning strategies in many countries are set to achieve not just housing numbers but also to improve the quality of the residential environment, with particular attention given to design policies. This involves not only essential aesthetic considerations (the visual appearance and architecture) but also a better integration between people, places and new developments into the natural, built and historic environment. To ensure a full range of daily activities and services like employment, recreation, schools and shops, housing must be developed as part of mixed-use higher-density area. This approach also helps minimize travel distances while ensuring a healthy environment and greater socioeconomic well-being. Planning for housing should also maintain a neighborhood's identity and develop a sense of place by taking into account the socio-physical infrastructure and historic, cultural and aesthetic value of the place. Improving the accessibility of areas should involve the development of a better transport network, including diverse public transport and energy efficient and alternative modes of transport. The regeneration of high-density inner-city areas should also help bring housing closer to different services and lifestyle opportunities. Existing housing estates may be improved through technological and planning regulatory practices.

Cities and oblasts play a particularly important role in supporting government housing objectives through planning. Regional and local housing strategies should provide a framework within which planning requirements can be evaluated in terms of their capacity to promote housing objectives. Additional planning mechanisms can also be explored, such as

Figure 11. Egan Wheel for sustainable community



Source: The Geographical Association, "Building Sustainable Communities". Available at <http://www.geography.org.uk/projects/buildingsustainablecommunities/onlinecpdunit/stimulus/activity1/> (accessed 10 February 2014).

housing developments for specific groups in need. Planning for housing ensures that all housing issues can be considered at every stage of the planning process, starting from the identification of adequate land to the setting of development controls and the assessment of particular developments against those controls. Planning activities can affect housing outcomes by:

- Governing the availability of land for housing and the location of new housing developments, in relation to transport, services, employment and educational opportunities through land-use regulations
- Influencing the way new housing is designed and configured and achieving appropriateness, affordability and tenure of new developments through development controls
- Preventing the loss of existing affordable housing in major urban renewal processes
- Mitigating the social or environmental impact of approved developments, for instance, through the use of developer contributions to fund neighbourhood infrastructure or potentially affordable housing

Land administration plays an important role in the economy of every country. Efficient land-management practices are beneficial to all aspects of sustainable development (economic, social and environmental).

Ukraine is the second-largest country in Europe. In the past, Ukraine was part of the Soviet Union. During this time, land use rights were granted to either the collective farms (*kolkhozy*) or the state-owned farms (*sovkhhozy*).⁶⁹

⁶⁹ Katja Dells, Maxym Fedorchenko, Oksana Frankewycz and Pieter Steffens, *State Land Management of Agricultural*

In Soviet times, Ukraine was a major food producer, providing one-fourth of the Soviet Union's agricultural products.⁷⁰ After gaining independence in 1991, land reforms were undertaken along with the move to a market economy. Ukrainian land reform was initially based on the resolution of the Verkhovna Rada "On Land Reform" of 18 December 1990, and the Land Code of 1991. Land privatization has been ongoing since then, affecting, in particular, rural areas. However, a restitution process for land did not take place; many international projects were conducted to respond to this need, amongst them the World Bank initiative "Rural Land Titling and Cadastre Development Project", and a number are still being carried out.

Considerable progress has been achieved concerning land; however, the implementation of current and planned legislation remains a major task. Land administration authorities are facing the challenges of completing the registration of land and ownership and setting up the SLC for Ukraine. They also have the task of introducing a healthy land market, particularly in rural areas where there is still a moratorium on the sales of agricultural land, which prevents the introduction of real-estate market structures.

Land in Ukraine (Berlin: GTZ, 2006). Available from http://www.unece.org/fileadmin/DAM/hlm/prgm/cph/experts/ukraine/land_info/land.management.agri.2006.pdf (accessed 6 February 2014).

⁷⁰ Ukraine Digest, "Ukraine's Black Soil is Golden for the Economy". Available from <http://ukraine-digest.com/agriculture/21-ukraines-black-soil-is-golden-for-the-economy> (accessed 21 January 2013).

Picture 7. Rows of multi-apartment buildings with playground and parking

