

Between regulation and over-regulation: Planning and the market from a cross-national perspective

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SUMMARY

Planning laws exist in most countries across the globe today (at least in the books). They are intended to regulate the use of land and to allow or restrain construction. But “getting it right” is difficult especially in this very challenging field of law and policy. Indeed, very few countries remain satisfied with their own planning laws for more than a few years, as evidenced by the frequent reforms in this field of law especially in countries where planning laws do function robustly (such as the UK).

Why is it so difficult to find the right formula in land planning and regulation? The answer lies in the inherent conflict between the desire to further the public interest for the long range, and the fluctuations of the development market and the pulse of socio-economic change. This tension expresses itself in the perennial tension between two poles - certainty and flexibility, over-regulation and under-regulation.

The presentation will analyze the manifestations of this tension, providing examples from several countries, including Greece. Such manifestations include many aspects of planning “systems”, including issues such as:

- The time it takes to prepare plans and the gap created with changing social and market needs;
- The style and contents of plans – extensive detail (overregulation) or flexible detail according to degree of realistic certainty
- Do planning bodies keep on “inventing” new topics for regulation, such as “design review”, which make approval more complex and the built-up product more expensive?
- Does the law permits amendment of plans to adjust regulations to market needs, or does it “freezes” plans for a period of time (such as in Greece);
- Do law and practice enable flexible mixed use or are there impediments based on anachronistic conservatism (I will give examples of overly rigid regulation)
- Do law and practice give room for agreements with developers to enable fine-tuning of planning, market, and financing of public services
- Consistency of enforcement over time