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INCONSISTENCY OF SPATIAL PLANNING REGULATION AS A BARRIER TO INVESTMENT IN CROATIA

Summary

Spatial planning is a broad and interdisciplinary field that encompasses environmental protection, cultural heritage, transportation, and economic development (Adams, Alden, Harris, 2006:4). It influences the development of individual country by considering the aforementioned sectoral policies. Spatial plans are fundamental documents of physical planning, and in Croatia they are regulated by the Spatial Planning Act. In the Republic of Croatia, these plans are considered subordinate legislation and are adopted at three levels: national, regional, and local. Several types of spatial plans are adopted at each level of spatial planning. The Spatial Planning Act stipulates the obligation of mutual coordination of spatial plans in the vertical and horizontal directions. In terms of vertical alignment, a lower-level spatial plan must be consistent with the higher-level spatial plan. Horizontally, a spatial plan covering a narrower area must comply with the spatial plan of a broader area, and specific rules are established to address situations where inconsistencies between them arise. It should be noticed, however, that spatial plans are documents which should follow the necessities of the society, environmental goals and sustainable development. Due to the principle of legality, all subordinate legislation must be aligned with the law. Nevertheless, frequent changes and amendments to spatial plans occur at all levels. As a result, navigating the regulatory framework of spatial planning becomes challenging for professionals, public officials, and individuals seeking to obtain building permits.

Keywords: spatial plan, coordination, judicial review, investment, Croatia.

1. INTRODUCTION

Spatial planning is one of the key instruments of managing the distribution of people and activities across local, regional, and national level.¹ Spatial plans, as the most important documents of spatial planning, determine land use, conditions for building, infrastructure development and the protection of the environment. *Land is also a critical asset for community economic development and is a major contributor to national wealth.*²

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¹ For more details, see in: Dominic Stead, Vincent Nadin, *Spatial planning. Key instrument for development and effective governance with special reference to countries in transition* (UNITED NATIONS, New York and Geneva, 2008) 1-2.

² Lorena Figueiredo, Chris McDonald, *Making Land Management Work for Indigenous Economic Development*, (OECD, 2019) 7.

It is not an easy task to coordinate activities in spatial planning. Certain demands could be in conflict, such as development of certain area and protection of the environment,³ or conflict of public and private interest⁴. Coordination of spatial plans, in hierarchical and in sectoral meaning, sets firm basis for the investment in every country. However, in the Republic of Croatia, spatial plans are not always harmonized, which leads to investments being burdened by prolonged timeframes and delays, and giving rise to legal uncertainty and consequently an unpredictable investment outcome.⁵

When spatial plans at the state, regional, and local levels are not mutually aligned, the resulting discrepancies are conceptualized as hierarchical or vertical inconsistencies, reflecting structural disharmonies within the spatial planning system and undermining the coherence of multilevel territorial governance. When spatial plans come into conflict with other spatial plans or with sector-specific regulations, such as those governing roads, railways, energy infrastructure, and related domains, the resulting misalignment is characterized as horizontal or sectoral inconsistency, reflecting a lack of coordination between spatial planning frameworks and the regulatory requirements of individual sectors.

Croatia aims to develop into a competitive and spatially sustainable country, and as such, become more attractive for investors. Therefore, in the Programme of Spatial Development of the Republic of Croatia⁶ as a primary goal are listed development of infrastructural systems and ensuring the efficiency of the spatial planning system. For that purpose, organizational, legal, and other frameworks for systematic care of space and spatial development should be improved, and it should direct spatial development priorities primarily towards improving efficiency within already built and utilized areas, and towards creating conditions for new programs to stimulate economic activities and enhance quality of life in all areas, especially those experiencing depopulation and implementation of the principles of sustainable development, etc.

This paper aims to prove that spatial plans' consistency is one of the most important preconditions for the economic development in Croatia. Crucial element for ensuring consistency of spatial plans (and other regulations as well) is to comply with the principle of the legality and with the rule of law. Therefore, focus of this paper to detect reasons for inconsistencies of spatial plans in Croatia and to give certain solutions for reducing described condition. The aim of this paper is to systematically present horizontal and vertical alignment of spatial plans. An additional objective is to research whether mechanisms exist that could enhance the harmonization of spatial plans, either at the legislative or sub-legislative level, with the goal of increasing legal certainty and creating a favourable environment for investment development. Methodology used in this paper is normative and teleological. This paper is based on the analysis of administrative courts' case law and regulations relevant for the area of spatial planning.

³ Lana Ofak, 'Utjecaj upravno-pravne zaštite okoliša na infrastrukturne projekte' in Jakša Barbić, Miljenko Giunio (eds) *Zbornik 53. susreta pravnika u gospodarstvu* (Hrvatski savez udruga pravnika u gospodarstvu, Zagreb) 270.

⁴ Council of Europe, *Guide on Article 1 of Protocol No. 1 – Protection of Property*, 2020, 62-63. See Article 13 of the Spatial Planning Act of the Republic of Croatia (Official Gazette, n. 155/25) (hereinafter: SPA). On conflict of private and public interest in spatial planning see in: Tatjana Josipović, 'Usklađenost javnog interesa i privatnih interesa u postupcima prostornog uređenja' in Jakša Barbić (ed) *Očuvanje načela zakonitosti u postupcima prostornog uređenja i gradnje* (Croatian Academy of Sciences and Arts, Zagreb, 2025) 21-41.

⁵ This kind of situation can even discourage investors from building (Małgorzata Krajewska, Sabina Żróbek, Maruška Šubic-Kovač, "The role of spatial planning in the investment process in Poland and Slovenia", *Real Estate Management and Valuation* (2014) 22 (2) 53.

⁶ Programme of the Spatial Development of the Republic of Croatia (Official Gazette, n. 50/1999, 96/2012, 96/2012, 84/2013).

2. VERTICAL AND HORIZONTAL CONSISTENCY OF SPATIAL PLANS IN CROATIA

In modern democracies the principle of legality is considered a basic principle. The principle of legality is embedded in the ideal of the rule of law. According to the Rule of Law Checklist,⁷ benchmarks are legality, legal certainty, prevention of abuse of power, checks and balances, equality and non-discrimination, access to justice, constitutional review, particular challenges of the rule of law. When giving guidelines for the assessment of the aspects of the rule of law - the legality and supremacy of law, Venice Commission highlighted several issues, and two of them are of special importance for this research: *Is there a clear hierarchy of legal acts and are there clear rules on settling normative conflicts? Is legislation adopted without delay when required by the constitution or by law?*⁸ When talking about the hierarchy of legal norms, there should be alignment of legislative acts with the constitution, but also *the concept of 'law' covers not only constitutions, international law, statutes and different forms of secondary legislation, but also, where appropriate, binding judgments.*⁹ Therefore, by-laws could become the subject to review for their compliance with higher-order regulations.¹⁰ Compliance of legal regulations seems as an easy task when one subject is regulated by one law and one by-law. However, this kind of situation rarely occurs. Spatial planning and building are characterized by numerous legal regulations at all three territorial levels¹¹ in Croatia, meaning laws and by-laws.

Basic laws regulating the field of spatial planning and building in Croatia are SPA, Building Act¹² and Local Self-Government Act¹³. Spatial plans in Croatia are defined in the SPA as documents with force and legal nature of by-laws.¹⁴ Number of local and regional spatial plans mostly¹⁵ depends on number of local and regional units in Croatia. Currently, there are 20 counties at the regional level plus City of Zagreb which has a status of the county.¹⁶ At the local level there are 555 local self-government units.¹⁷ Total number of spatial plans in Croatia is not permanently defined. It depends on the development of the certain local or regional area, and on the needs of the society. However, according to the Spatial Development

⁷ Council of Europe, Venice Commission, *The Updated Rule of Law Checklist* (Strasbourg, 2025). Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)002-e), accessed 22 December 2025, 2.

⁸ Rule of Law Checklist, 7.

⁹ *Ibidem*.

¹⁰ *Ibidem*.

¹¹ See at: <https://www.arhitekti-hka.hr/hr/zakoni-propisi/popis/prostorno-uredenje/>, accessed 27 January 2026.

¹² Building Act (Official Gazette n. 155/25) (hereinafter: BA).

¹³ Local Self-Government Act (Official Gazette, n. 33/2001, 60/2001, 129/2005, 109/2007, 36/2009, 125/2008, 36/2009, 150/2011, 144/2012, 123/2017, 98/2019, 144/2020) (hereinafter: LSGA).

¹⁴ Article 82 of the SPA.

¹⁵ Local representative bodies are entitled to adopt several types of spatial plans on local level. It is possible that one local unit will adopt all three types of local act, while another could adopt only one type of local level spatial plan. SPA regulates three types of spatial plans on local level in Croatia (See articles 102 - 107 of the SPA).

¹⁶ Art. 2 of the Act on the City of Zagreb, Official Gazette (n. 62/2001, 125/2008, 36/2009, 119/2014, 98/2019, 144/2020).

¹⁷ Ivan Koprić, 'Glavna obilježja postojećeg i prijedlog novog teritorijalnog ustrojstva Hrvatske – zašto nam treba teritorijalna reorganizacija' in Ivan Koprić (ed.) *Reforma lokalne i regionalne samouprave u Hrvatskoj* (Institut za javnu upravu, Pravni fakultet Sveučilišta u Zagrebu, Studijski centar za javnu upravu i javne financije, 2013) 5 (p. 1-30). See: <https://mpudt.gov.hr/o-ministarstvu/ustrojstvo/uprava-za-politicki-sustav-i-opcu-upravu/lokalna-i-podrucna-regionalna-samouprava/popis-zupanija-gradova-i-opcina/22319?lang=hr>, accessed 9 December 2025.

Strategy of the Republic of Croatia¹⁸ there are more than 3.000 spatial plans valid for the territory of the Republic of Croatia.¹⁹

In Croatia, spatial plans are adopted in three levels,²⁰ state, regional and local level. State level spatial plans are State Spatial Development Plan, Spatial Plan of Special Feature and Urban Development Plan of State Significance.²¹ Currently, on the state level, there is no State Spatial Development Plan, but in 2024 preparational decision - Decision on the making of the State Spatial Development Plan - was published in the Official Gazette of the Republic of Croatia.²² Regional level spatial plans are Spatial Plan of a County, Spatial Plan of the City of Zagreb and urban development plan of county significance.²³ Local level spatial plans are Spatial Plan of a City or Municipality, General Urban Development Plan and Urban Development Plan.²⁴

It is also important to mention that Croatia has formally hierarchical system of spatial plans, meaning that lower level spatial plan must comply with the higher level of spatial plans. Systems of spatial plans, as defined in the OECD Report 2017,²⁵ are formally hierarchical *if every level of government that is involved prepares at least one such plan that provides legally binding regulations for lower levels of government*. Among hierarchical systems some are very restrictive, while other allow to lower levels of certain discretion in preparation process of spatial plans.²⁶ SPA has provisions contains provisions intended to ensure the harmonization of spatial plans. In the article 86 of the SPA entitled bodies are listed as responsible to ensure the mutual compliance of the spatial plans. Spatial plan must be in accordance with the SPA and other legal acts based on the SPA. Spatial plan of lower level must comply with the spatial plan of higher level. Spatial plan of narrower area must be in accordance to the spatial plan of wider area. Spatial plans of the same level must be in mutual coordination.²⁷ However, spatial plan of lover level and narrower area may consist provisions which contain stricter quantitative and qualitative conditions and measures for the implementations of interventions in the space. It could consist higher spatial standards of those which are in spatial plans of wider area.²⁸ Additionally, entitled ministry should give its consent to the regional and local level spatial plan.²⁹ Mentioned consent is in connection with the legal nature of spatial plans in Croatia which are by its legal nature general acts.³⁰ According to the LSGA, each general act of local self-government unit is under the control of legality, first before administrative bodies (local mayor) and then state bodies (entitled ministry). Reasons for numerous spatial plans at local and regional levels of territorial structure of Croatia could be in the dependence of land use system on territorial administrative division,³¹ so the

¹⁸ Spatial Development Strategy of the Republic of Croatia (Official Gazette, n. 106/2017).

¹⁹ However, this data is from 2014, and aforementioned Strategy is from 2017.

²⁰ As in the most European countries (Nadin Vincent *et. al.*, *COMPASS – Comparative Analysis of Territorial Governance and Spatial Planning Systems in Europe* (ESPON, 2018) 17). See also: <https://www.arl-international.com/knowledge/country-profiles>, accessed 10 December 2025.

²¹ Article 84/2 of the SPA.

²² Decision on the making of State Spatial Plan (Official Gazette, n. 48/2024).

²³ Article 84/3 of the SPA.

²⁴ Article 84/4 of the SPA.

²⁵ OECD, *Land-use Planning Systems in the OECD - Country Fact Sheets* (OECD Publishing, Paris, 2017) 31. (hereinafer: OECD, 2017).

²⁶ OECD, 2017, 31.

²⁷ Article 85 of the SPA.

²⁸ Article 85/5 of the SPA.

²⁹ See OECD, 2017, 32. and Article 79/2 of the LSGA.

³⁰ See Article 73 of the LSGA.

³¹ See the structure of the reports on Spatial Planning Systems at: <https://www.arl-international.com/knowledge/country-profiles>, accessed 27 January 2026.

first problem is in the current structure of the local self-government system.³² This type of local self-government was established in the early 1990-ies.³³ According to the OCED Report, most of OECD countries have established their land-use systems before 1970.³⁴ Certain reforms appeared during 1990-ise and 2000-ies in transitional countries as a result of transition from socialism to democratic market economies.³⁵ Therefore, the solution could be quite simple - reform of the current system of local self-government in Croatia. But, if we want to keep present system of local self-government which will be acceptable for investors, we should seek some other solutions; for example, in stable legislation, in strengthening the accountability of local and regional authorities, in administrative and judicial review of all acts in the field of spatial planning, in fiscal policy, in simplification and shortening of certain procedures, and in learning from the good practices of European countries. The discussion begins with the responsibility of local units in cases where they do not adopt a spatial plan, while the subsequent chapters address judicial review of spatial plans and good practices of the European countries regarding coordination mechanisms.

3. NON-ADOPTION OF SPATIAL PLAN AS A BARRIER TO INVESTMENT

Spatial plans constitute the fundamental planning documents. Consequently, in the absence of a spatial plan, no planning and no building permits can be granted, which means construction cannot take place and, ultimately, that investment cannot occur. The process of adopting a spatial plan,³⁶ depending on its level and complexity, may take several months.³⁷ It is therefore essential that local self-government units act in a timely manner and in accordance with the law, ensuring conditions for the adoption of the relevant spatial plan. Therefore, local self-government units constitute key actors that ought to assume responsibility for spatial development and construction within their jurisdiction. This implies that they cannot rely solely on the rights conferred upon them by the Constitution³⁸ and statutory provisions, particularly the guarantee of the right to local self-government, which is likewise recognized at the international level through the European Charter of Local Self-Government.³⁹ Local self-government units should bear responsibility for their territory, maintain awareness of developments within it, and continuously propose further improvements. In conclusion, although local self-government units enjoy rights guaranteed by international and national regulations, they must be accountable for their actions.

For the realisation of the principle of spatial sustainability of development,⁴⁰ it is important to consider what happens if a local self-government unit fails to adopt a spatial plan for an extended period. Sometimes, however, gaps in a sense of non-adoption of by-laws may

³² On reducing of numbers of local and regional units see in Ivan Koprić, 'Suvremeni trendovi u razvoju lokalne samouprave i hrvatska lokalna i regionalna samouprava' in Ivan Koprić (ed.) *Europeizacija hrvatske lokalne samouprave - Dva desetljeća primjene standarda Europske povelje o lokalnoj samoupravi* (Institut za javnu upravu, 2018, Zagreb) 123-124.

³³ Local Self-Government and Administration Act (Official Gazette, n. 90/1992).

³⁴ OECD, 2017, 28.

³⁵ *Ibidem*.

³⁶ Articles 108 - 135 of the SPA.

³⁷ For more on the process of the adoption of spatial plans and public participation in this process see in: Frane Staničić, "Sudjelovanje javnosti i pristup pravosuđu u procesima prostornog planiranja" (2017) 11 (1-2) *Elektronički zbornik radova Veleučilišta u Šibeniku* 31-52.

³⁸ Articles 128 - 131 of the Constitution of the Republic of Croatia (Official Gazette, n. 56/1990, 135/1997, 113/2000, 28/2001, 76/2010, 5/2014).

³⁹ European Charter of Local Self-Government (Official Gazette of the Republic of Croatia - International Agreements, n. 14/1997).

⁴⁰ Article 11 of the SPA.

depend on limited planning resources and time.⁴¹ In Croatia, within the LSGA, chapter on control of local self-government establishes mechanisms to monitor whether local self-government respects the rights of its citizens, whether local units achieve their potential, do they violate the law or other regulations. Representative bodies are responsible for the timely adoption of acts.

However, specific sanction for the case of failure to adopt a spatial plan is not explicitly prescribed in Croatia, but more in-depth analysis leads us to the following conclusions. If local self-government unit adopts a spatial plan that is not aligned with a hierarchically superior spatial plan, it risks intervention by the Ministry with suspension mechanism for the spatial plan. Further, Ministry is obliged to refer spatial plan to the High Administrative Court of the Republic of Croatia (hereinafter: HAC) for the review of its legality.⁴² If that does not happen, local self-government unit anyway risks that citizens will notice irregularities and that they will start proceedings before the HAC.

In accordance with the legislation, there is a mechanism that may compel a local self-government unit to adopt an urban development plan - dissolution of the local representative body.⁴³ This is preventive mechanism of the control over administration, but it could become repressive if local self-government unit does not act in accordance with the law. Article 84 of the LSGA regulates as follows:

“Upon the proposal of the state administration body responsible for local and regional self-government, the Government of the Republic of Croatia shall dissolve the representative body: (...)

if it repeatedly adopts general acts that are contrary to the Constitution, a law, or another regulation, or due to frequent and serious violations of laws and other regulations (...).”

It is important to note that the dissolution of a local representative body was originally envisaged as a sanction *if a local self-government unit failed to adopt a spatial plan*. This ground for dissolution was removed from the law by the Amendments to the Local and Regional Self-Government Act in 2012, without any specific explanation.⁴⁴ Till 2012 this instrument was, however, not used even once.⁴⁵

It falls within the self-governing scope of local self-government units to regulate the spatial development of their territory. If a local or regional self-government unit ignores this obligation, it could be considered that the unit is not acting in accordance with the constitutional values that designate the protection of space as one of the highest principles of the Constitution.⁴⁶ Therefore, the mechanism of dissolving local representative bodies can be considered as one of the mechanisms for addressing the inactivity of local and regional self-government units in adopting spatial plans.

⁴¹ Gerhard Larsson, *Spatial Planning Systems in Western Europe - An Overview* (IOS Press, Amsterdam, 2006) 90 and Katarzyna Miszczyk, “Contemporary Spatial Planning and Case of Poland“ (2013) (324) *Economy and Space*, 110.

⁴² Articles 78 - 82a of the LSGA.

⁴³ Articles 84 - 85 of the LSGA.

⁴⁴ Final proposition of the Act on the Amendments of the Local Self-Government Act, 45, available at; https://www.sabor.hr/sites/default/files/uploads/sabor/2019-01-18/080432/PZ_184.pdf, and Article 44 of the Act on the Amendments of the Local Self-Governemnt Act (Official Gazette, n. 144/2012).

⁴⁵ Mateja Crnković, “Raspuštanje lokalnih predstavničkih tijela“ (2012) 12 (3) *Hrvatska i komparativna javna uprava : časopis za teoriju i praksu javne uprave*, 814.

⁴⁶ Article 52 of the Constitution of the Republic of Croatia.

4. ANALYSIS OF COURTS' CASE LAW IN CROATIA

An administrative dispute is the most significant form of judicial review over the administration.⁴⁷ Judicial review of spatial plans can be considered as one aspect of the involvement of public, since public could be entitled to initiate procedures before the court.⁴⁸ In OECD countries this mechanism is generally available, but several countries restricted it only to those individuals or groups of individuals that have legal interest in the spatial plan.⁴⁹ In Croatia, from its independence, Constitutional Court was entitled to control the legality of spatial plans.⁵⁰ Since 2012, this role was given to the HAC, by the Administrative Disputes Act.⁵¹ Firstly, the procedure could have been initiated only by individuals and groups with legal interest. Legal interest had to be proven by the individual decision issued on the basis of spatial plan.⁵² Since 2024, everyone who was affected by spatial plan could initiate procedure before the HAC, even if there was no individual decision based on the spatial plan.⁵³ If the HAC concludes that the spatial plan is unlawful, the request is accepted and spatial plans is no longer valid with the *ex nunc* effect.⁵⁴ Judgment of the HAC should be published in the Official Gazette of the Republic of Croatia.⁵⁵

Over the last five years, the HAC was deciding on the legality of spatial plans in more than fifty cases. Following table shows the results of the conformity of spatial plans with the law.

⁴⁷ Dario Đerđa, "Pravci reforme institucionalnog ustroja upravnog sudstva u Republici Hrvatskoj" (2008) 45 (1) *Zbornik radova Pravnog fakulteta u Splitu*, 76. god. 45, 1/2008., str. 75.-94.

⁴⁸ OECD, 2017, 33.

⁴⁹ OECD, 2017, 34.

⁵⁰ For more on the transfer of jurisdiction from Constitutional Court to the HAC see in: Jasna Omejec, Slavica Banić, "Diferencijacija propisa i općih akata u budućoj praksi Ustavnog suda i Upravnog suda u povodu Zakona o upravnim sporovima (2010.)" (2012) 49 (2) *Zbornik radova Pravnog fakulteta u Splitu*, 309-324.

⁵¹ Administrative Disputes Act (Official Gazette of the Republic of Croatia, n. 20/2010). Today is in force Administrative Disputes Act (Official Gazette, n. 34/2024) (hereinafter: ADA).

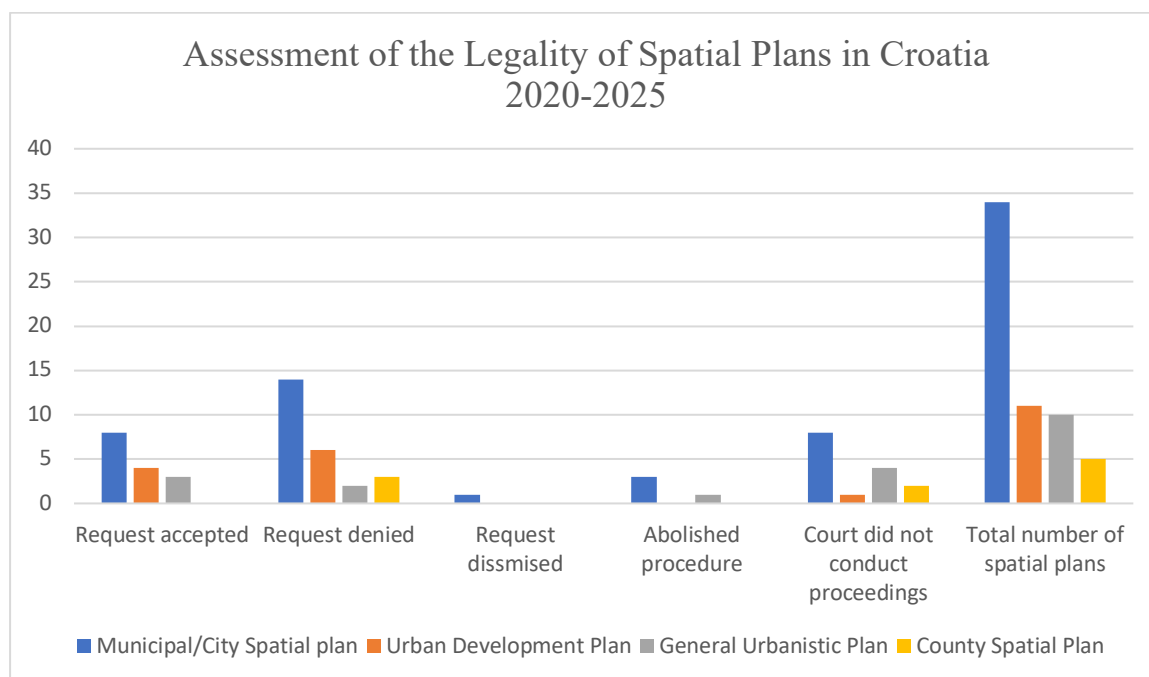
⁵² Certain critics on the delivery of the individual decision as a precondition for the assesment of legality of general act see in: Sanja Otočan, "Pojedinačna odluka kao pretpostavka ocjene zakonitosti općeg akta u objektivnom upravnom sporu, (2016) 37 (1) *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, 715-734.

⁵³ Article 158 of the ADA.

⁵⁴ Article 162/3 of the ADA.

⁵⁵ Article 162/4 of the ADA.

Table 1. *Conformity of the spatial plans with the law.*⁵⁶



Source: author's research.

Analysis of the HAC's case law covered those judgements where request was accepted and spatial plan was put out of force with the *ex nunc* effect, those cases where request was denied or dismissed, then cases where the HAC abolished procedure and cases where the court did not conduct proceedings at all. In the latest, the court did not start the procedure as regulated in the article 158/2 of the ADA. Analysis was conducted on the following types of spatial plans in Croatia: municipal or city spatial plan, urban development plan, general urbanistic plan and county spatial plan.

Request for the assessment of the legality of spatial plans was accepted in 15 cases out of total number of 59 spatial plans. It means that 25 % of spatial plans was declared as unlawful.

The unlawful spatial plans contained procedural or substantive deficiencies,⁵⁷ and some of them both, but HAC was not deciding on substantive deficiencies when procedural one was detected. Procedural deficiencies were detected regarding the amendments of spatial plan. They were not conducted in accordance with the SPA provisions which includes for example public discussion, but they were made according to the procedure for correcting a general act, which is more simple procedure.⁵⁸ The remaining two judgments pertain to the public consultation process. The time period afforded to the interested public for submitting comments on the spatial plan was not observed, which constitutes a procedural defect; consequently, the spatial plan must be declared as unlawful.⁵⁹

⁵⁶ The table is based on 59 decisions of the High Administrative Court of the Republic of Croatia which were published on the official website of the High Administrative Court of the Republic of Croatia over the last five years (2020-2025). Decisions analysed in this paper are provided at the end of this paper, and are available at: <https://sudovi.hr/hr/vusrh/sudska-praksa/sudska-praksa>, accessed 29 January 2026.

⁵⁷ Inga Vezmar Barlek, 'Sudska kontrola zakonitosti dokumenata prostornog uređenja' in Ante Galić (ed.) *Novosti u upravnom pravu i upravnosudskoj praksi* (Organizator, Zagreb, 2024) 200.

⁵⁸ Usoz-313/2023-7 from 27 March 2024, Usoz-77/20-10 from 13 April 2023.

⁵⁹ Usoz-50/21-8 from 5 July 2022, Usoz 56-17 from 28 September 2020.

Vertical and horizontal coordination of spatial plans was regulated in the Article 61 of SPA⁶⁰ as it follows: “A spatial plan must comply with this Act and with the regulations adopted on the basis of this Act. A lower-level spatial plan must be harmonised with the higher-level spatial plan. A spatial plan for a narrower area must be harmonised with the spatial plan for a broader area of the same level. Spatial plans of the same level must be mutually harmonised.” Further, a spatial plan of a lower-level local area may prescribe stricter quantitative and qualitative conditions and measures for the implementation of interventions in space, that is, higher spatial standards than those laid down in the spatial plan of the broader local area. HAC in the judgment Usoz-111/2022-6 27 from January 2025 stated: "Accordingly, pursuant to the applicable legal framework governing spatial planning, higher-level spatial plans - such as the spatial development plan of the municipality at issue - may not, within the guidelines for the preparation of urban development plans for areas falling within their scope, prescribe the possibility of determining spatial standards lower than those envisaged by the direct application of the spatial development plan”.

There were four judgements where spatial plans had procedural deficiencies,⁶¹ and 11 of them contained substantive deficiencies⁶². Municipal or city spatial plans were unlawful in eight cases, urban development spatial plans in four cases, general urbanistic plan in three cases and there were no irregularities in county spatial plans for the observed period of time.

5. MECHANISMS FOR COORDINATION IN COMPARATIVE LEGAL SYSTEMS

European countries are aware of complexity of spatial planning. Each analysed country has more levels in spatial planning system, mostly three levels - state, regional (or federal) and local level. Therefore, effective vertical and horizontal coordination across all states is essential to minimize regulatory conflicts. Countries could be divided into those in which there is both horizontal and vertical co-ordination, countries with mainly vertical co-ordination and weak or no horizontal co-ordination, countries with mainly horizontal co-ordination and weak or no vertical co-ordination and countries with a weak horizontal and vertical co-ordination.

Instruments for coordination could be more or less formal.⁶³ Based on the previously outlined common characteristics, the following section provides a concise overview of coordination mechanisms in several European countries.

In *Austria*, there are three levels of spatial planning, state, federal and municipal. State level influences for example on main infrastructure projects with finances.⁶⁴ Federal states are comparable, but differences remain between them.⁶⁵ In its complex spatial planning system, which also includes the federal states, Austria has established a coordination mechanism. This mechanism is The Austrian Conference on Spatial Planning⁶⁶ (*Österreichische*

⁶⁰ Article 61 of the Spatial Planning Act (Official Gazette, n. 153/2013, 65/2017, 114/2018, 39/2019, 98/2019, 67/2023).

⁶¹ Usoz-313/2023-7 from 27 March 2024, Usoz-77/20-10 from 13 April 2023, Usoz-50/21-8 from 5 July 2022, Usoz 56-17 from 28 September 2020.

⁶² Usoz-111/2022-6 27 from January 2025, Usoz-173/2024-9 from 29 September 2025, Usoz-87/2024-7 - from 30 October 2025, Usoz-83/2024-7 from 30 October 2025, Usoz-137/21-13 from 25 March 2024, Usoz-108/2022-8 from 27 March 2024, Usoz-28/20-16 from 24 January 2022, Usoz-145/20-6 from 29 November 2021, Usoz-113/20-6 from 29 November 2021, Usoz-111/19-10 from 29 November 2021, Usoz-38/19-9 from 28 February 2020.

⁶³ Elisabete A. Silva, Ransford A. Acheampong, *Developing an Inventory and Typology of Land-Use Planning Systems and Policy Instruments In OECD Countries - Environment Working Paper No. 94* (OECD, 2015) 31.

⁶⁴ OECD, 2017, 55.

⁶⁵ *Ibidem*.

⁶⁶ Regional institution as a mechanism of coordination was known in Sweden and in Portugal (Larsson (n 41) 97).

Raumordnungskonferenz) founded in 1971.⁶⁷ It consists of all three levels of spatial planning plus business associations, and civil society associations.⁶⁸ Its main task is *to provide high-level co-ordination of spatially relevant policies across the country and assemble relevant stakeholders from the political and administrative level.*⁶⁹ This type of body *is the most important condition for a wider integration and coordination between sectors.*⁷⁰

Czech Republic is organized in three levels, and spatial planning system is following this division.⁷¹ Spatial plans are adopted at state, regional and municipal level. Although there is no special coordination body in spatial planning, Ministry of Regional Development plays an important role in coordination of spatial planning activities. It *carries out methodological work, provides guidance and streamlines the work of the State administration, practices of spatial planning authorities and building offices in relation to spatial planning and planning permit proceedings.*⁷² Additional coordination mechanism in vertical manner is in the fact that spatial plans of the lower level must be aligned with the spatial plans of the higher level. Sectoral coordination is achieved through participation of relevant actors with the possibility of complaint prior the approval of spatial plan.⁷³

In *Denmark*, there are three levels of government, national, regional and local. The most important regulations are Planning Act, Building Act, Nature Protection Act and Land Registration Act. Spatial plans are hierarchical, so coordination mechanism relies in the core of vertical coordination, meaning that lower level plans should follow the guidelines in higher level plans. Horizontal coordination is explicitly expressed in the Planning Law.⁷⁴ Municipalities, as the most important actors in land-use planning in Denmark,⁷⁵ are entitled to adopt legally binding spatial plans, and regions prepare strategic plan for regional spatial development.⁷⁶ Regions are focused on the economic development of the region.⁷⁷

Territorial structure in *Poland* is organized in three levels, *województwo*, *powiat* and *gmina*,⁷⁸ and spatial planning system consists of national, regional and local level. All three levels of spatial planning have important role in creation and adoption of spatial plans. Binding plans exist only at the local level, but Poland has formally hierarchical system of spatial plans.⁷⁹ Spatial Planning and Development Act *sets out the type, scope and procedures for enacting planning documents at different levels of administration.*⁸⁰ Vertical coordination mechanism relies in the hierarchical structure of plans, while horizontal is achieved through consultations.⁸¹ Consultation with local community at each stage of the process of creation of

⁶⁷ More on the Austrian Conference on Spatial Planning see at: <https://www.oerok.gv.at/english-summary>, 26 January 2026.

⁶⁸ OECD, 2017, 57-58.

⁶⁹ *Ibidem*.

⁷⁰ Larsson (n 41) 98. However, for local levels sectoral coordination depends on the “good leadership, good internal information system and suitable routines than of building up specific formal organizations“ (Larsson (n 41) 98).

⁷¹ OECD, 2017, 75

⁷² More on tasks of the Ministry of the Regional Development of Czech Republic see at: <https://mmr.gov.cz/en/ministerstvo/spatial-planning-and-building-rules>, 26 January 2026.

⁷³ OECD, 2017, 77.

⁷⁴ OECD, 2017, 81-83.

⁷⁵ OECD, 2017, 81.

⁷⁶ Ole Damsgaard, 'The Danish Planning system 1990-2010 - Continuity and Decay' in Mario Reimer, Panagiotis Getimis, Hans Heinrich Blotevogel (eds) *Spatial Planning Systems and Practices in Europe* (Routledge, London and New York, 2014) 22-23.

⁷⁷ OECD, 2017, 81.

⁷⁸ Mateja Crnković, “Lokalna samouprava u Poljskoj“ (2010) 10 (4) *Hrvatska javna uprava* 1060-1061.

⁷⁹ OECD, 2017, 167-168.

⁸⁰ Krajewska, Żróbek, Šubic-Kovač (n 5) 54.

⁸¹ OECD, 2017, 169.

spatial plan is important not just as coordination mechanism, but also for the rational space management.⁸²

In Slovenia, territorial structure is organized in two levels, with municipalities⁸³ entitled for local spatial plans, with the task of coordination between all stakeholders. There are no regional level as territorial units of the country, but there are 12 Regional Development Agencies with certain tasks in connection of spatial planning.⁸⁴ For the current system of spatial planning the most important are Spatial Planning Act (slo. *Zakon o urejanju prostora* ZUreP-3)⁸⁵ and Building Act (slo. *Gradbeni zakon*, GZ-1).⁸⁶ Generally *Spatial Development Strategy of Slovenia is the main policy document to coordinate policies across sectors*,⁸⁷ and consultations are an important tool during the process of the adoption of spatial plans.⁸⁸

6. CONCLUSION

Stable legislation is one of the fundamental preconditions for legal certainty. It is also one of the core elements of the rule of law. Frequent changes of legislation, especially frequent changes of sectoral legislation decrease legal certainty and prolong procedures before administrative bodies. If legislation is not stable, it could also affect citizens plans or actions. Therefore, public discussion on proposed changes in legislation is essential and it will ensure that citizens' legitimate expectations are preserved.⁸⁹ Beside the respect of the right to a public hearing as stated in the Article 6 of the ECHR,⁹⁰ this type of coordination mechanism could point out irregularities during the early phase of the adoption of spatial plans.

Administrative control is performed by entitled administrative bodies in administrative proceedings, or through various types of the control, such as hierarchical supervision, state supervision etc.⁹¹ HAC is entitled to perform the control of the legality of spatial plans, and in Croatia over the last five years, there was 25 % of spatial plans declared as unlawful. Therefore, beside consultations, Croatia may consider to introduce special body entitled to coordinate spatial plans across levels of government, as in Austria. This special body should carry the role of mechanism of coordination which, next to Austria, was known in several other countries such as in Sweden, Portugal, etc.⁹²

A sound financial environment is an important factor in spatial planning. For example, certain procedures could be streamlined, specific provisions designated as strategic investment

⁸² See in: Krzysztof Rogatka, Paulina Tomczykowska, "The influence of Polish spatial regulations on development" (2015) 6 (2) *Urbanism. Arhitectură. Construcții*, 34.

⁸³ Slovenian Constitution predicts two levels of local self-government, but only municipalities have been established (Stane Vlaj, "The System of Local Self-Government in Slovenia with a Special Emphasis on the Status of the Capital City Ljubljana" (2012) 12 (3) *Hrvatska i komparativna javna uprava - Croatian and Comparative Public Administration* 676.

⁸⁴ See in: Naja Marot, *Country Profile of Slovenia* (Hannover, ARL Country Profiles, 2024. <https://www.arl-international.com/knowledge/country-profiles/slovenia/rev/4203>, accessed 27 January 2026).

⁸⁵ *Zakon o urejanju prostora* (Official Gazette, n. 199/21, 18/23 – ZDU-1O, 78/23 – ZUNPEOVE, 95/23 – ZIUOPZP, 23/24, 109/24 in 25/25 – odl. US)

⁸⁶ *Gradbeni zakon* (Official Gazette, n. 199/21, 105/22 – ZZNŠPP, 133/23, 85/24 – ZAID-A, 47/25 – odl. US in 75/25).

⁸⁷ OECD, 2017, 187.

⁸⁸ *Ibidem*.

⁸⁹ Council of Europe, Venice Commission, *Rule of Law Checklist*, 2016, available at: https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf, 26.; The updated Rule of Law Checklist (n 7) 18-19.

⁹⁰ Article 6 of the European Convention on Human Rights and Fundamental Freedoms (Official Gazette, n. 18/1997, 6/1999, 14/2002, 13/2003, 9/2005, 1/2006, 2/2010, 13/2017).

⁹¹ See Article 3 of the State Administration System Act (Official Gazette n. 66/2019, 155/2023).

⁹² Larsson (n 41) 97.

projects, and investors incentivised through exemptions from selected local levies, such as the municipal contribution.⁹³

Another solution is shortening certain procedures required for obtaining construction related permits. The new Building Act has introduced differentiated applications for the issuance of building permits. Necessary documents primarily depend on the type of structure for which the permit is being sought.⁹⁴ Deadlines and necessary documentation for building permits should rely on the complexity of a project. For simple buildings such as private houses or other simple building, the deadline should be shorter than for big investments such as building of shopping malls, or industrial zones.

It is necessary to fully digitalise the relevant procedures. Spatial Planning Information System (cro. *Informacijski sustav prostornog uređenja, ISPU*) is constantly upgraded. The new Spatial Planning Act has envisaged a set of specific instruments or the digitalisation of spatial plans.⁹⁵

Additionally, based on comparative experience, there should be clear division of spatial plans on strategic and implementation spatial plans. State and regional plans could be strategic with less details. This kind of structure and type of spatial plans decreases possibility that local plan would come into conflict with spatial plans of higher levels, and as a consequence be declared as unlawful before the HAC.

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⁹³ Taxes and subsidies create strong incentives to develop land in particular ways. If they are aligned with the objectives of land-use regulations, businesses and individuals are less likely to seek to develop land in ways that conflict with the spirit or the law of land-use regulations (OECD, 2017, 42).

⁹⁴ See Articles 62, 63, 64 of the BA.

⁹⁵ Spatial plans are prepared and adopted within the information system through the *ePlanovi* and *ePlanovi* Editor modules (Art. 83 of the SPA).

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