

Regulatory impact assessment – a tool towards better territorial governance?

A case study of Slovenian planning law

Dr. Naja Marot

Urban Planning Institute of the Republic of Slovenia

naja.marot@uirsi.si

+386 1 420 13 13

Abstract

Entering EU new member states gained a new level of governance, consequently a need for transformation of the planning system occurred. This transformation had already been in progress since 1991 when Slovenia got independence together with a new market system. At the very beginning the former planning system, introduced in 1984, was adapted according to the property rights the a designing of new planning act started- First planning act which also interfered with the governance of urban territory was adopted in 2003 and introduced more strategically and regionally oriented planning. Conservative government which succeeded the former government in 2004 opted for a new version of planning law and finished with its preparation in 2007. Such approach towards policy making raised a lot of issues among planning professionals and also among municipalities in charge of planning law delivery. In Slovenia planning law is the major and beside Agricultural Land Act and environmental legislation the only law guiding planning activity on all territorial levels (national, local) thus there is no law only focused on urban governance. Additional measures and obligations are listed also in the Local Government Act and sectoral acts.

The new act in 2007 changed hierarchy of the plans (e.g. diminished the role of urban design plan), steered the planning system towards allocative planning, modified terminology, above all lack of any comprehensive impact assessment of the previous act and the planning system was recognized. With no evidence available, the prevailing understanding was that planning legislation caused the present diminishing state of Slovenian planning and the course of the actual spatial development (e.g. suburbanization, new construction instead of renewal, dilapidation of old city centres and old building fund in general) thus needed to be, and was changed.

In order to prevent such a hasty approach to policy making, OECD and EU introduced a method called regulatory impact assessment, now simplified into impact assessment. This method has two major goals, namely to improve the policy making in the member states, and to fortify the delivery of regulation towards the designated goals more efficiently. Different approaches are taken in the member states which differentiate in the method use (interviews, Delphi, questionnaires...), extent, performer, goal and the outcomes. Furthermore, there is also a great distinction in who and how uses the results of such analyses. On the basis of superficial evaluation of the state of art of Slovenian planning system which has showed a clearly "bad image" of planning legislation and these new possibilities for improvements, the method of regulatory impact assessment was developed and adapted to the specifics of the planning, and then performed in the case of Spatial Planning Act from 2007. More emphasis as usually in regulatory impact assessment was put on the social aspects – governance, and on sustainability as one of the modern development principles. The role of Spatial Planning Act was addressed through its quality with the following hypothesis: If the Spatial Planning Act fulfils the criteria of good regulation than it discharges its functions in the planning system successfully. The selected criteria of good regulation were effectiveness and efficiency, comprehensibility, feasibility, transparency, legitimacy and sustainability. The processed information in the assessment originated from three data sources. The municipal planners answered the written questionnaires, 55 out of 210; then eleven interviews with the representatives of planning companies were performed. All criteria were assessed with different type of content indicators and also on numeric scale from 0 to 4 (4 meaning "act fully corresponds to criterion"). Further on, comparative analysis was done for the acts (2003, 2007) and upgraded with the results of existing studies. All this information was used to evaluate singular criterion of the good planning legislation and its role in the planning system.

The results have shown that planning legislation corresponds the criteria only partially and does not provide the suitable framework for territorial governance. The least successful is act regarding the feasibility, effectiveness and efficiency since act provisions do not consider the financial, knowledge and human resources capacity of Slovenian municipalities. Spatial development objectives, as defined in the act, are also poorly achieved. However, the sustainability is commonly adopted as a development concept, thus this criterion got the highest average estimation of 2. The criterion of comprehensibility is also problematic since actors struggle a lot with the understanding of the act and the constant changes of technical terms. In practice, they prefer the older terminology. Legitimacy and transparency got high numeric marks but in reality transparency and openness of the planning process only achieve obligatory minimum since planners carry out only public hearing and in some cases also unofficial preliminary workshops. Legitimacy is weakened because of the significant influence of the politics onto the planning. The analysis was not directly pointed onto urban governance, yet some characteristics and weakness of this process were also put forward. To prosper from instant results of the assessment, the planning system capacity to perform the law should be significantly improved.

All in all, impact assessment has shown that further alterations of the Spatial Planning Act are needed to have the objectives of the planning legislation fully delivered. The chosen method was an attempt of whether it is possible to assess such a complex legislation with only one general assessment integrating all different aspects and with simplifying otherwise long and complex procedures. This simplification might have led into less detailed evaluation of the actual territorial effects. Considering the criteria, this in majority focuses on governance, a revision of the method, and in particular of some questions is suggested to deliver more satisfactory results also in the territorial dimension of territorial governance. The overall picture should be upgraded with further and more detailed and specifically tailored analysis of some planning system's issues such as achievement of national spatial development objectives, property issues, need for regional level in Slovenian planning system, and sectoral co-operation in planning, especially in the case of agricultural land use.

Keywords: regulatory impact assessment, Slovenia, planning system, planning law, evaluation