

Spatial planning in Switzerland

1 Comprehensive planning and co-ordination obligation for all authorities

The new article on spatial planning, incorporated in the Federal Constitution in 1969, transferred responsibility for *framework legislation* on spatial planning to the Confederation. However, practical planning implementation was to remain essentially a matter for the Cantons, which in turn often delegate a number of tasks to the communes (local authorities). In addition to this federal framework legislation, the Confederation promotes and co-ordinates the spatial planning of the Cantons and also takes into consideration the “demands” of spatial planning in its own activities.

However, the reality of Swiss spatial planning is not as simple as stated in the article of the Constitution. In fact, Confederation, Cantons and communes are *jointly* responsible for ensuring economical land use. They do this, inter alia, by harmonizing their activities which have spatial impact and “implementing planning which is orientated towards the desired development of the country”. In detail, the tasks of the Law on Spatial Planning are distributed as follows:

2 The spatial planning tasks of the Confederation

2.1 Framework legislation

In the matter of legislation, the Confederation must limit itself to laying down principles. The principles may indeed touch on the whole range of spatial planning tasks, but should not deal with the subjects in depth, however, the Confederation may regulate in detail particularly important areas which are key for the whole of Switzerland, such as implementation of the *principle of the separation of building zones and non-building zones* as laid down in the Constitution.

Federal law principles relate in particular to

- the *aims and planning principles* which must be considered for any spatial planning;
- the *planning instruments* and related rules of procedure;
- those individual questions which are central for the whole functioning of spatial planning, such as the *permit obligation for all buildings and installations*, the size of building zones, exceptional permission for *building outside building zones* and *ensuring the infrastructure provision* of building land.

2.2 Promotion and co-ordination of cantonal spatial planning

Co-operation of the Confederation with the Cantons is a central postulate of co-operative federalism. The Confederation promotes and co-ordinates the spatial planning of the Cantons first and foremost through the aforementioned *framework legislation* and through the *approval of cantonal structure plans*. However, it also has a duty to co-ordinate its own tasks with the spatial planning of the Cantons. Important instruments for this are the *basic studies* drawn up by the Confederation and the actual planning instruments of the Confederation, the *sectoral strategies and sectoral plans*. An example to illustrate the necessity for a sectoral plan is provided by the aviation sector: The Sectoral Plan for Aviation Infrastructure is intended to achieve the necessary co-ordination with the spatial planning of the Cantons. The sectoral plan is not directly binding on private individuals, but lays down how the Confederation should make use of its decision-making scope when issuing permits and licences under aviation law.

2.3 Taking account of spatial planning when fulfilling federal tasks

When fulfilling the tasks conferred on it, the Confederation is also bound by the aims and principles of spatial planning. Therefore, at all levels of action – planning, legislation, administration, case-law – it remains subject to spatial planning law itself. Being tied to the “demands” of spatial planning also means that the Confederation is bound by cantonal law and the planning studies based on it unless exempted by special provisions. Finally, approval of cantonal structure plans by the Confederation ensures that cantonal spatial planning does not unlawfully hinder the Confederation from fulfilling its duties.

3 The spatial planning tasks of the Cantons

According to the text of the Federal Constitution, the Cantons are responsible for the actual “creation” of spatial planning.

3.1 Spatial planning and building regulations

The Cantons enact cantonal *implementing legislation* for the Federal Law on Spatial Planning. As already mentioned, the federal law lays down only the principles and therefore does not constitute a set of rules which answers all important questions. Cantonal spatial planning and building regulations also contain public building regulations, and often road construction regulations and regulations on building land rationalisation. In simple terms, the cantonal public building regulations are concerned with the requirements for building, the integration and form of buildings and the requirements for construction, operation and maintenance. In addition, there are rules of procedure. When enacting their spatial planning regulations, the Cantons are bound by the aims and principles as well as the instruments of the federal law. This together with the related case-law of the Federal Court allows a certain standardization of planning law. However the spatial planning and building regulations of the Cantons differ markedly from each other in the extent of regulation and the terminology.

3.2 Cantonal structure plan

The main planning instrument of the Cantons is the *structure plan* (Richtplan in German, plan directeur in French), which is subject to approval by the Federal Council. The structure plan shows how the many activities of the Confederation, the Canton and the communes (local authorities) which have spatial impact are to be harmonized with each other in the area. The structure plan also deals with the question of when and how the public tasks which have spatial impact are to be carried out. This produces a plan binding on the authorities which, in agreement with the Confederation, shows neighbouring Cantons and bordering countries how cantonal spatial planning is intended to progress towards the desired spatial development. Depending on the state of planning work, the information may be simply orientations, interim results or firm statements. They may concern public transport networks, nature conservation areas of cantonal importance, sites for waste disposal facilities and the like to name but a few examples. The cantonal structure plan is therefore not an outline of a “desirable final state” of the cantonal territory, but a *process plan for co-ordinating and steering the next stages of spatial development* already underway. A map serves to clarify and define the content of the structure plan. During the course of the structure plan process, inconsistencies and conflicts become clear, which can be resolved in the prescribed spatial planning procedure. Structure plans are constantly adjusted in line with developments and revised at least every ten years.

3.3 Regional planning associations

Large Cantons often delegate supramunicipal spatial planning tasks to public-law planning associations (regional planning associations). In the Canton Zürich, for example, these draw up regional structure plans, which develop spatial planning on the basis of the structure plan for the whole Canton. In Geneva, a structure plan for the Swiss-French metropolitan area is available (Charte de l’agglomération Franco-Valdo-Genevoise).

4 Land use planning of the communes

Most Swiss Cantons have a highly developed municipal federalism. In the spatial planning sector, the following demarcation of responsibility is often undertaken in these Cantons: whilst the Canton is responsible for structure plans binding on authorities and covering its whole territory, it hands over to the communes land use planning binding on landowners, in particular delimitation of the building area from the non-building area and determination of the type and extent of specific building use in the building zones.

The *land use plans* (*Nutzungsplan* in German, *plan d’affectation* in French) must meet the provisions of the Federal Law on Spatial Planning. The rules are more detailed here than in the case of cantonal structure plans, because land use planning is assigned the important task of laying down the boundary between building zones and non-building zones. Building zones must respect the planning aims and principles and must not exceed the size laid down in federal law. In addition, there are more and more the standards of the environmental law. Designation of a building zone requires, for example, that certain noise pollution values are not exceeded. Inextricably linked with specification of building zones is the task that these should then be serviced for development and made ready for building. The re-

striction of building to building zones only makes sense if building zones marked out for the needs of fifteen years ahead are also made ready for building in appropriate stages. Another task of the communes is the financing of building land infrastructure provision. It is a matter for the Cantons or communes to regulate this. Landowners are usually involved in the financing of building land infrastructure provision with contributions. Communal land use planning should not simply cover the building zone but should also include the area outside the building zone. Zones with particular purposes can be designated there (e.g. disposal of material, small village zones, ski pistes etc.). Designation of protected zones based on landscape planning is also imperative in most cases.

Since communes have considerable decision-making scope, they draw up overall concepts and communal structure plans for their area as the basis for land use planning and co-ordination with their other public tasks.

The tasks of cantonal structure planning and communal (local authority) land use planning are inter-linked in a variety of ways. In this sense, one can talk about a dual hierarchy in cantonal spatial planning:

- Even though communes are responsible for land use planning, they must respect the plans of the higher state level.
- Swiss planning instruments provide for various levels: the structure plan binding on the authorities sets requirements for land use planning binding on landowners and this in turn usually limits the possibilities of the even more detailed special land use plans which often regulate very specific building projects (also called „Gestaltungsplan“, „Überbauungsordnung“, „Bebauungsplan“ [local plan]).

Most Cantons delegate the tasks of infrastructure provision for building land, building land rationalisation and issuing building permits to the communes. The permit responsibility of the communes for buildings outside the building zones (mostly agricultural land) is ruled out by the Federal Law on Spatial Planning: permits require at least the approval of a cantonal authority.

5 Material planning aims and principles of the Federal Law on Spatial Planning

5.1 Economical land use

The Federal Law on Spatial Planning lays down the aims and principles of spatial planning for the whole of Switzerland. Its primary aim is *economical use of the limited land area*. The importance of this aim can be understood better if one considers that only 30 percent of the comparatively small area of the country of 42,000 km² is suitable for intensive human use. High mountains, forests and water bodies take up a large area. This 30 percent of the land area has to provide adequate space for all needs such as housing, employment, transport, leisure, agriculture, nature conservation etc. The aim of economical land use covers two aspects:

- In view of the continuous and rapid spread of settlements during the last decades, land consumption must be restricted. Agglomeration and change of use in the existing settlement area are central.
- Economical land use, however, also means optimum spatial organisation of the different land uses. Concentration of buildings in a well serviced settlement area ensures economical land use much better than creating scattered small settlements each with its own infrastructure provision.

5.2 Co-ordination requirement

The second aim of Swiss spatial planning is the *co-ordination of all activities with spatial impact* carried out by the federal, cantonal and communal authorities. It goes without saying that successful co-ordination contributes towards economical use of land. For example, a lack of co-ordination between the arrangement of housing areas (communal land use planning) and the building of transport infrastructures (primarily federal planning) can result in neither being used appropriately. A lack of co-ordination therefore leads to plans being impossible to implement and finally to bad investments.

5.3 Orientation towards the desired spatial development

The third aim demands that *the activities of the authorities which have spatial impact be orientated towards a desired spatial development*. The spatial planning concept which this requires is laid down at federal level in the “Swiss Planning Policy Guidelines” and at cantonal level in the corresponding “Spatial Development Guidelines” and structure plans. An important element of planning policy expressed there is the orientation towards “decentralized concentration”, i.e. a network of compact settlement areas of different sizes. This does not mean settlement development simply in the large ag-

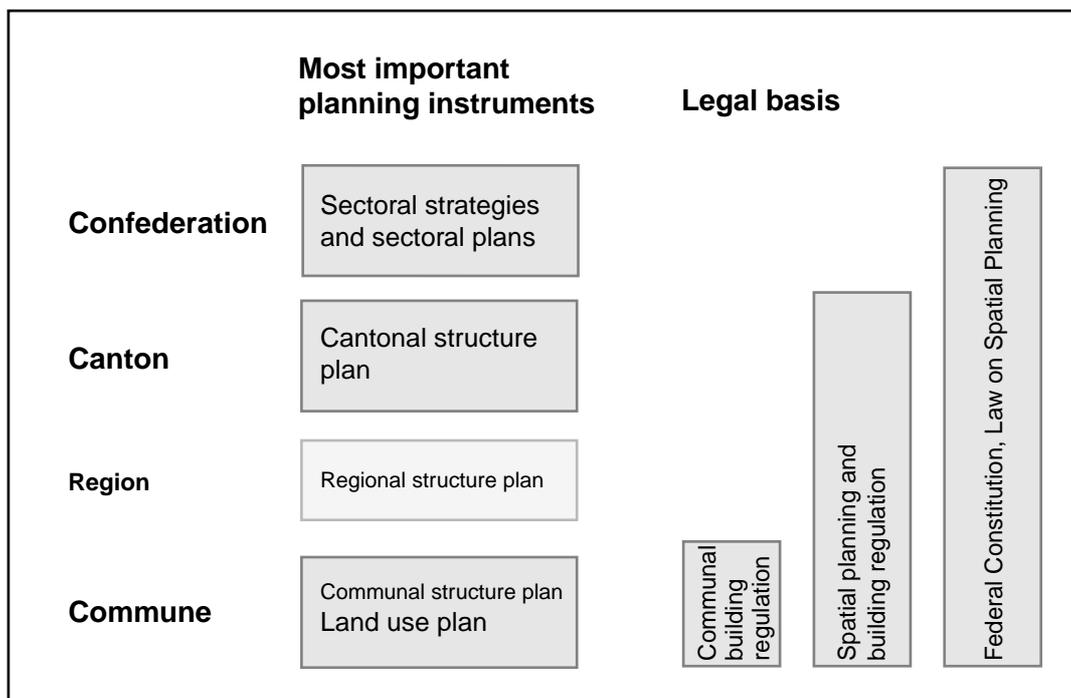
glomerations of the Swiss Plateau. The agglomerations and regional centres in the Alpine valleys also have important potential for growth.

In pursuing these aims, the needs of people and the environment must be considered equally. The forward-looking spatial planning required is thus not simply an instrument for promoting economic development, but also one of precautionary nature conservation and environmental protection. Spatial planning also makes an important contribution to housing construction policy, to promoting the country's disadvantaged regions, to agricultural policy and to national defence. It is not possible to lay down in law which needs should prevail in case of conflict. The answer must be provided by planning proceedings, comprehensive balancing of interests and finally by the subsequent political decisions.

5.4 Planning principles as aids to decision-making

For balancing the different spatial planning aims, Art. 3 of the Law on Spatial Planning lays down a number of "planning principles". These are decision-making criteria which are intended to act as a guide to balancing interests. The planning principles do not in themselves form a definitive consistent system, so that they have to be weighed against each other in each individual case.

Planning principles are for instance the preservation of the landscape by e.g. protecting agricultural cultivable land. Furthermore the arrangement of settlements according to the needs of the inhabitants and limitation of settlements is demanded. This principle should be achieved e.g. by appropriate location of homes and workplaces and adequate linking by public transport.



Overview of the Planning instruments and the Legal basis in Switzerland