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IV.1. THE IMPLEMENTATION OF THE SUSTAINABLE DEVELOPMENT PRINCIPLE IN ZONING AND PLANNING REGULATIONS: THE LITHUANIAN CASE

Theoretical background

Sustainable development has been a major area of policy focus since a framework for the principles of sustainable development was laid down at the United Nations (UN) Conference on Environment and Development in 1992. As the major consumer of resources and energy, the construction industry (including spatial planning) has been at the heart of the debate on sustainable development (Opoku *et al.* 2022). Therefore, there are a variety of studies on sustainable development principles in spatial planning. A few of the main findings of the relevant research may be cited.

Sustainable development is a worldwide topic in urban planning legislation. As J. R. Nolon (2009, pp. 3–14) indicated after examining the legal regulation on sustainable development in the USA, the task of creating an integrated system of law to promote sustainable development, manage climate change, and reduce energy consumption is not as complex or novel as it seems. Such a statement is also supported by Zhang *et al.* (2022). These authors, having analyzed the development of urbanization in China, suggested that sustainable urban development could be ensured simply by analyzing and replicating the historical relics of urban spatial structures, urban functional zoning, and the differences and evolutionary characteristics of urban construction sites.

Achieving sustainable development was made even more convenient when the Sustainable Development Goals (SDGs) were presented by the UN (2015). As research (Szetey *et al.* 2021) indicates, the SDGs are a global sustainability agenda intended to be implemented at global, national, and local scales. Local planners developing sustainability plans should make use of the SDGs to produce a consistent and comparable set of goals and targets. Therefore, it is not surprising that the implementation of the sustainable development principle differs in various localities. For example, China is now at a critical stage of rapid urbanization and industrialization, so it pays more and more attention to urban construction and the green and sustainable development of the environment (Wang *et al.* 2022).

However, the SDGs are not the only instrument to help countries achieve sustainable development. Along with the SDGs, different countries or regions take various measures towards sustainability. For example, the African Union, in addition to the 17 SDGs, has established its own system of SDGs called Agenda 2063, which contains 20 Goals. The African Union has identified five principles for the sustainable development of African countries: light up and empower Africa, feed Africa, industrialize Africa, integrate Africa, and improve the quality of life for the people of Africa. This represents the African Union's vision for a more developed, richer and more independent Africa (Wang *et al.* 2020).

Meanwhile in Sweden, high demand for sustainability is ensured by detailed measures, including particularly extensive spatial planning requirements and a long list of individuals and institutions participating in the process (Trygg and Wenander 2021, p. 8). Swedish authors K. Trygg and H. Wenander (2021, p. 9) note that one of the main instruments for sustainable development is the comprehensive plan prepared by the planner, which includes formulated visions and goals. In addition, municipalities often have specific goals that add to sustainable development, such as specific plans (e.g., a bicycle plan, a traffic plan and a green structure plan), guidelines (e.g., a wood construction strategy and guidelines for sustainable building) and programs (e.g., a land and housing program, an energy and climate program, and an urban environment program). Sustainable development is thus achieved through the implementation of complementary local-level principles.

Detailed measures which could be introduced to ensure sustainable development are not confined to the Nordic countries. Specific measures for sustainable development and the mitigation of climate change consequences are analyzed by various researchers in heavily affected regions. For example, Turkish researchers – while analyzing measures to mitigate heat waves, floods and lack of water – indicate that, from the perspectives of massive architectural, spatial, and landscape designs and solutions, climate is among the major factors that play an important role (Toy and Demircan 2019). Researchers from Iran systematically propose some solutions for cooling urban neighborhoods (Ramyar *et al.* 2019). Current planning approaches and policies should effectively deal with environmental challenges, especially when looking at sustainable storm-water management (Pappalardo and La Rosa 2019), which is also topical in Lithuania. Meanwhile, within the Indonesian regulations, flood mitigation systems that work by identifying spatial planning criteria related to housing and settlement planning and disaster mitigation are essential (Mardin and Shen 2019). Finally, the study on *Urban Planning and Water-related Disaster Management* edited by G. Huang and Z. Shen (2019) is worth mentioning, from which the most noteworthy output is the notion that water management is multifaceted. Furthermore, approaches to dealing with water-related issues are diverse, such that wise water governance including the incorporation of wise water management into urban planning should be pursued in order to achieve an integrated solution for sustainability.

To summarize, the studies of other researchers support the observation that sustainable development is a growing global trend, although measures of sustainability are often taken and implemented at the national level.

This paper further presents an analysis of the main legal norms in the Republic of Lithuania which enable sustainable development, with the purpose of demonstrating the legal constraints and finding the exact measures which are under implementation.

An analysis of Lithuanian national regulation

The roots of sustainable development regulation are primarily settled at the international level. In recent years, the European Union and the UN have published two legal instruments to encourage sustainable development.

First, the European Green Deal, established in 2019 by the European Commission. This is a response to the common challenges of poverty, pollution, and other environmental degradation. The European Green Deal aims to transform the EU into a fair and prosperous society, with a modern, resource-efficient, and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use (European Commission 2019).

Second, the 2030 Agenda for Sustainable Development (UN 2015). At the heart of the Agenda there are 17 Sustainable Development Goals (SDGs). The Sustainable Development Goals call for action to end poverty and other deprivations and are intended to go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth (UN 2015). As some authors note, the Sustainable Development Goals provide overarching guidance for the construction industry to promote sustainable development from environmental, social, and economic dimensions (Opoku *et al.* 2022).

These two instruments are left to the discretion of EU Member States to implement through national regulation. In Lithuania, the European Green Deal and the Sustainable Development Goals are firstly implemented through spatial planning regulations. Therefore, in this part of the article, legislation on spatial planning shall be discussed. Firstly, the existing Spatial Planning Law, which introduces the principle of sustainable development and which was followed by the Law on Architecture, is analyzed. Secondly, the main features of later by-laws are assessed. Thirdly, the sustainable development measures which are implemented within the Vilnius Master Plan and other soft law instruments are discussed.

The introduction of the sustainable development principle in the Spatial Planning Law and the Law on Architecture

Despite the existence of numerous papers that analyze what sustainable development is, there is no agreement on one definition which might indicate exactly what constitutes the principle of sustainable development. The term *sustainable development* has a broad meaning, and is defined by such international organizations as the UN and the EU. The term *sustainable developmen*t is also widely discussed in the UN Sustainable Development platform and the European Commission 2030 Agenda for Sustainable Development, which are published online and are free to access.

On June 27, 2013, the Lithuanian government passed the Law Changing the Law on Spatial Planning of the Republic of Lithuania (hereafter – the Spatial Planning Law), which came into force from January 1, 2014. Article 1 of this law indicates that, among others, one target is to ensure the sustainable development of territories alongside rational urbanization by setting out requirements of a systematic nature.

The inclusion of the principles of sustainable development in the new law did not by itself establish clear rules for projects to be considered sustainable. Still, the inclusion of the principles of sustainable development in the Law on Spatial Planning is a tipping point for the future enactments of mandatory guidelines to promote rules related to sustainable development.

The newly adopted Law on Spatial Planning consolidated the concept of sustainable development within a legal framework regulating spatial planning, and did so in a reasonably flexible way. This means that what exactly constitutes sustainable development is open to specialists' interpretation, but at the same time the Spatial Planning Law provides for a legal basis to ensure that the main values of sustainable development are incorporated into the spatial planning process. Municipal authorities and developers have the freedom to meet the requirements of sustainable development during the process of preparing the relevant documents. These requirements depend not only on developers and planners, but also on the public (since public participation is ensured in the planning process).

Even though the Spatial Planning Law identifies the grounds for sustainable development, it does not provide exact and specific instruments to reach this goal. This means that the principles of sustainable development can be implemented through a wide scope of solutions, and these solutions essentially rely on the decisions of the project developer.

Such uncertainty leads to a situation where no specific clear measures for sustainable development are determined, even in case law. Lithuania's higher courts only mention (identify) the existence of the principle of sustainable development, but do not define the substance of this principle. For example, the *Generalization on Judicial Practise Implementing the Legal Norms of Construction Legal Relations* (2010) of the Supreme Administrative Court of Lithuania indicates that the principle of sustainable development is applied to all construction cycles, without elaborating. No further comments or cases are given to analyze sustainable development. Accordingly, lower courts also do not cover the substance of this principle. The sustainable development principle is only mentioned when analyzing the solutions of spatial planning documents (e.g., Supreme Administrative Court of Lithuania decision No. eAS-625-858/2015) or encouraging the developments of infrastructural projects related to renewable energy (e.g., Supreme Administrative Court of Lithuania decision No. A-152-525/2015). To summarize, such mentions do not constitute clear evaluation of the substance of sustainable development. This might be caused by the lack of legal doctrine or evaluation criteria under which a specific project could be acknowledged to meet the requirements of sustainable development. Accordingly, the explanation of the substance of the principle of sustainable development relies on urban planners. This provides a wide range of opportunities for urban planners to interpret that their specific project meets sustainable development criteria, but it does not give any certainty to other confronting parties in the planning process (such as investors and communities).

This legal uncertainty in understanding the substance of the principle of sustainable development led to the necessity of amending the law and creating more specific mandatory rules. Therefore, minimal requirements on green zones in the land plot or other criteria were introduced in by-laws or master plans, and an amendment to the Spatial Planning Law was even adopted.

The Ministry of Environment prepared an amendment to the Spatial Planning Law which was enacted on January 12, 2021. By introducing an amendment to the law, the Ministry of Environment indicated, among the four reasons to amend the law: the target of reaching sustainable de-

velopment; encouraging the coordination of social, economic, and environmental interests; and implementing measures to mitigate the effect of climate change. Accordingly, the climate change elements are mentioned jointly with the sustainable development elements in four different articles of the amendment. All of these changes are related to one essential idea: that climate change is a fact, and its mitigation should become a core tenet of evaluating whether a project fits the requirement of sustainability.

This change should serve to help not only in the evaluation of certain measures, but also in providing clarity to all urban planning participants, including urban planning practitioners working at the lowest level, investors, and communities. The intended changes should also bring a change in judicial practice, where judges currently do not see the necessity of discussing climate change measures while analyzing urban planning cases. Cases referring to climate change have so far been associated with funding climate change initiatives, providing subsidies, public procurement, and the legality of the usage of such funds (Supreme Administrative Court of Lithuania decisions No. eA-2091-1062/2019; No. eA-3415-502/2019, No. A-146-330-14 and etc.; Court of Appeal of Lithuania decision No. 2-1494/2013). Thus, there is clear lack of case law explaining sustainable development criteria.

The process of sustainable spatial planning in Lithuania has strong links with the operation of architects and urban planners. As the decision-makers of the planning process, planners can be considered as central actors for the realization of sustainable development by means of strategic planning (Trygg and Wenander 2021, p.7). Unsurprisingly, alongside the Spatial planning Law, on June 8, 2017, the Government of Lithuania passed the Law on Architecture. Art. 1.1 of the Law on Architecture indicates that the target of this law is to regulate public relations in the field of architecture in such a way as to ensure sustainable environment. The Law on Architecture is obligatory for architects, and sets certain requirements for architects to act in favor of sustainable development.

For example, Art. 3.1(2) of the Law on Architecture establishes that one of the six main principles under which architects must act is the sustainable development principle. This means that it should be observed that architecture, by utilizing creativity and innovations, contributes to the creation of the environment between the state and people, and is important for the development of economic and social relations. Art. 11.(2) of the Law on Architecture indicates the sustainable development principle as one of ten architectural quality criteria. To ensure the highest sustainability standards of architectural activities, Art. 13.2 of the Law on Architecture stipulates that municipal councils are obliged to establish and approve, in accordance with the criteria specified in the Law on Architecture, lists of architectural, urban-planning, or nationally significant objects or objects of public interest, for the planning or design of which architectural competitions will have to be held.

As an example, the Rules on architectural competitions were originally established on April 21, 2021, and were later replaced by the March 9, 2022, decision of the Vilnius City Council. According to Art. 1 of the current version of the rules, in order to ensure coherent, seamless and sustainable development, architectural competitions must be held for the development of high-rise buildings, hotels, and administrative, commercial, medical, recreational, sporting, residential and special-purpose buildings that exceed a gross floor area of 5,000 m^2, and other essential objects in the central area of the city. Such a demand in the by-laws helps to ensure that the work of architects for sites of major importance complies with sustainable development requirements.

However, this is not the only way to show how architects and municipal planners work under the legislative principles. The spatial planning procedure is subject to a wider range of by-laws and even soft law instruments, as discussed below.

Changes in the by-laws regarding sustainable development in urban planning

The main by-law regulating the preparation of complex planning documents is the Order of the Minister of Environment on Complex Planning Documents Preparation Rules. This order was amended on December 17, 2019.

Two main changes related to sustainable development were introduced without waiting for the adoption of the amended Spatial Planning Law.

First, an additional requirement was added to the planning works program for master plans at the municipal level. Paragraph 83.8 indicates that planners should foresee the complex renovation (modernization) of territories and an increase in the energy efficiency of city blocks. The same requirement was additionally included in paragraph 112, which names the general planning solutions, and paragraph 116, which provides the details of planning solutions.

Second, the wording of subparagraph 117.2.4 was amended to include a requirement to specify structural parts of the natural frame system, where the ecological chain and separate greeneries should be analyzed. In addition, the natural frame, and the ecological chain as part of it, should also be foreseen within the scheme of the present situation, as the amendment of subparagraph 105.1 indicates.

After the adoption of the amended Spatial Planning law, on May 5, 2021, the Complex Planning Documents Preparation Rules were adjusted accordingly. The amendment extends the requirements for the scope and content of the spatial planning work program. Additional requirements for improving the quality of the environment have been introduced and are reflected in Articles 83 and 84 of the Rules. The amendment also increases the focus on landscape character, compact development and energy efficiency. However, even with these amendments, the definition of sustainable development has not been clearly defined. The scope of the requirements for architects has been broadened, though the list of objectives and means of implementation remains incomplete, with "other requirements" at the end.

Taking advantage of the incomplete list of spatial planning requirements, Vilnius City Municipality has introduced "other requirements" into the legal framework, which are enshrined in soft law. This soft law focuses on architectural rules and street standards, which are enforced through the implementation of the Vilnius City Master Plan. These soft law rules work alongside the abovementioned legislation and by-laws, and act as a guide for the planner and developer.

The Vilnius City Master Plan and the soft law rules accompanying its implementation are analyzed next.

The course of sustainability in the Vilnius Master Plan

Vilnius is the capital city of Lithuania. According to data from the website of the Lithuanian Department of Statistics, the population of Lithuania is 2,830,097, while the population of the Vilnius area is 833,190 (official data of the year 2022; Official Statistics Portal, n.d.). Vilnius is by far the largest city in Lithuania, and its population is growing.

The city's previous master plan (adopted back in 2007) already at the time of its adoption indicated that a policy of sustainable development is a key objective for the city (Part 2.1: "Development tendencies"). The principles of sustainable development were therefore being applied in the capital long before they became enshrined in national law under the Spatial Planning Law of 2014. In some jurisdictions, sustainable development has to date been the most important discourse informing planning, and a powerful rhetoric for solving environmental problems (Gazzola *et. al.* 2018) – Vilnius is no exception.

Dissatisfied with some of the vague wording of the Spatial Planning Law, the city council resolved (in 2015) to revise and update the existing Vilnius master plan. Target 5.1 of the revised plan aimed to supplement the previous master plan with new criteria and indicators for the long-term sustainable development of the city. The revised plan introduced new criteria to measure the sustainability of new developments and actively encourage climate change mitigation measures. Approaches by local legislators can also be noted in other jurisdictions, as local adaptation policy and planning is critically important (Vogel *et al.* 2018).

The revised plan (*Vilnius Master Plan. Solutions. The Material Explaining the Solutions* 2021), which came into force in June 2021 (hereinafter – the Master Plan), shapes the city's "green infrastructure" as a tool to increase its ecological potential and mitigate the effects of climate change. This goal shall be achieved by setting up additional limitations on the green areas of the city (limiting the possibility for construction in the most vulnerable green territories), as well as by implementing several measures (policies). These include: promotion of the use of renewable energy sources; reduction of greenhouse gas emissions; channeling rainwater near trees in the preparation of technical projects for streets, squares, parking lots and other hard surfaces; increasing the number of artificial water bodies, parks, and other green areas; etc. According to the Master Plan, each of these measures shall be covered differently in the intertwining spheres of lower level spatial planning and construction processes by means of promotion and prohibition.

The use of renewable energy sources is promoted by foreseeing possibilities to use agricultural land that is not intended for urbanization to produce renewable energy (solar energy), as well as by the promotion of the development and application of renewable energy sources for heating purposes.

The reduction of greenhouse gas emissions shall be attained by implementing solutions aimed at reducing the usage of private automobiles and the promotion of the usage of public transportation, or private transportation which uses renewable energy sources. In addition, the revised plan foresees the conversion of industrial territories near the city center to other purposes of use (residential, commercial, etc.) and the development and application of renewable energy sources for heating purposes. These methods are expected to help reduce greenhouse gas emissions. As *Lithuania's Greenhouse Gas Inventory Report 2021* (issued in 2021) indicates, in 2019 transport and

energy categories composed 30.9% and 11.2% of total national greenhouse gas emissions, respectively.

The Master Plan addresses climate change as a global phenomenon. Therefore, additional measures regarding the protection of the city's residents are foreseen in case of heat waves. The plan indicates the necessity of increasing the number of artificial water bodies, parks, and other green areas, and the installation of fountains in public spaces whilst ensuring their uninterrupted operation during heat, as well as the installation of free water dispensers in the city.

The above-mentioned measures are introduced without the prior establishment of such requirements in the Spatial Planning Law. The importance of including climate change mitigation measures in the Vilnius Master Plan is highlighted by the fact that Article 50 of the Spatial Planning Law establishes a rule, under which the solutions of lower-level spatial planning documents must not contradict higher-level spatial planning documents. The same rule is applied countless times in court cases (Supreme Administrative Court of Lithuania decisions No. A-4660-556/2017; No. P-5-502/2018). Thus, every detailed plan which is a lower-level spatial planning document in Vilnius city will have to be in accordance with the Vilnius Master Plan, and will have to adopt climate change mitigation measures in some form.

In addition to the newly revised Master Plan, with clear measures for sustainability, Vilnius is known for its soft law regulations, which are analyzed in section 2.4 of this article. Therefore, the Vilnius city municipality is at the forefront of the introduction of meaningful and impactful norms regarding climate change mitigation measures.

Soft law regulations encouraging sustainable urban development

Despite the advancement of hard law regulations that are applicable in the country, municipalities still bear the greatest responsibility and the burden of decision-making. National regulations only set out the principles for spatial planners, and it is left to local governments to make final decisions on what exact measures may be introduced for the purpose of ensuring sustainable development via spatial planning. This is a cause for concern, as the evaluation of the sustainability of certain projects is realistically left unregulated. Still, municipalities use soft law instruments. As an example, the Vilnius Master Plan actively encourages the introduction of measures which could help in ensuring sustainable development via spatial planning. Therefore, to facilitate decision-making and ensure integrity, the municipality issued 12 Vilnius street standards (*Vilnius streets standards* 2021) and 10 Urban Planning and Architecture Rules (*Vilnius Urban Planning and Architecture Rules* 2020).

The Vilnius street standards are a set of principles establishing guidelines for designing street layouts. The aim of these standards is to make streets safe and convenient, prioritizing people over transportation (e.g., lighting for pedestrians first). These standards extend the approach to the established legal regulation, allowing for experimentation and improvement of the existing rules based on the best solutions found in Vilnius, Lithuania and abroad.

The Vilnius Urban Planning and Architecture Rules are principles formulated by the city administration in the context of monitoring the needs of modern society and assessing expectations for urban development. The application of these rules is important for the future image of the city

and the quality of life in the city – for planning changes in the city's public spaces, streets, and residential districts, for continuing the conversion of industrial districts, and for the creation of new public green spaces.

All ten rules ensuring sustainable development shall be analyzed further.

The first rule is to ensure urbanistic context. This means that solutions for the layout of buildings on a site and the development indicators must be in accordance with both the typology of development that has developed or is being purposefully developed on the site and the development indicators that are characteristic of this typology, such as intensity, density, or height.

The second rule is to fulfill the principles of perimeter development. That is: buildings, plantings and landscaping elements shall separate public spaces (streets, squares, squares) from private courtyard spaces; and courtyard spaces shall be shaped by creating boundaries between spaces belonging to a specific community, encouraging the involvement of the community in using and maintaining the space.

The third rule is to maintain multifunctionality: streets and public spaces shall be shaped to accommodate a wide range of interests, concentrations of services and modern mobility. This should ensure the livability of the city.

The fourth rule establishes that the best architectural ideas, the most rational functional solutions and the most aesthetic architectural expression shall be sought through architectural competitions. This requirement is implemented through the obligation to perform architectural contests in larger scale projects.

The fifth rule sets a requirement of harmony with the urban architectural context. On this ground, every new building or structure must fit into its context. At the same time, it must be contemporary in its urban design and architectural expression.

The sixth rule is to ensure the use of natural – and, preferably, local – building materials, such as bricks, wood, concrete, metal and glass. This should reduce carbon emissions in the transportation of goods and again positively influence the fight against climate change.

The seventh rule is aimed at encouraging and supporting the conversion and adaptation of existing buildings and public spaces, making the most of authentic buildings or elements of their structures.

The eighth rule speaks of heritage site enhancement. According to this rule, the intrinsic qualities of a heritage asset must be preserved when reconstructing or altering its setting, while non-intrinsic elements of the asset and its setting may alter.

The ninth rule establishes the primacy of factual content. This means that in project appraisal, the principle of factual content over bureaucratic form is applied. The actual use of the building, the type of construction, the number of dwellings, etc., are assessed.

The tenth rule is aimed at protecting the landscape and expanding green spaces. Therefore, when developing the area, the established landscape shall be protected, not obscured, not destroyed, and emphasized by architectural means.

Whilst the principles of sustainable development are in the open in terms of their specification in hard law, soft law instruments, such as the above-mentioned Vilnius Urban Planning and Architecture Rules, lend a hand to decision makers. Although soft law rules are non-mandatory regulation, they undoubtedly create transparency and clarity for designers and developers in implementing sustainable

development. With existing examples of good practice from Vilnius city municipality, it is likely that other municipalities in Lithuania will follow the principles that have already been laid out.

Conclusions

The sustainable development principle is widely accepted in spatial planning. Although certain measures for sustainable development are set out at an international level, it is up to each country to decide how to implement these measures. In Lithuania, the sustainable development principle was introduced in the Spatial Planning Law of the Republic of Lithuania in 2014. However, the definition of sustainable development was not explicitly provided. The Spatial Planning Law has, until recently, lacked specific mandatory norms explaining what should be done to ensure sustainability in new developments. Meanwhile, city planners are left with the difficult task of introducing certain legal requirements to ensure sustainable development without any guidance and without the requirement to set up indicators for the measurement of the effectiveness of certain measures.

The current master plan for the development of Vilnius strongly introduces climate change mitigation measures as a feature of sustainable development. Evaluating the specific measures mentioned in this paper, three main groups of sustainable development measures to mitigate climate change and ensure sustainability can be identified: measures to strengthen green areas; measures to reduce greenhouse gas emissions; and measures to promote the use of renewable energy sources.

Sustainable zoning and planning criteria are mainly being left to the competence of municipalities, without any direct regulations to accept such criteria or rules. Such a vacuum in the regulation calls for the use of soft law instruments, which make a major contribution to building the sustainable cities of tomorrow. Currently, only the municipality of the capital of Lithuania has any kind of soft law basis for sustainable development. Although soft law is not currently mandatory, law tends to catch up with life. Therefore, it is likely that these soft law rules will become part of the decision-making processes of all municipalities in no time. Having achieved this, soft law will become part of the regulatory framework.

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