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Theory and Practice of Spatial Planning

THE STATE OF PUBLIC PARTICIPATION IN SPATIAL
PLANNING IN THE EUROPEAN UNION: PUBLIC
PARTICIPATION IN SPATIAL PLANNING BETWEEN
THEORY AND PRACTICE

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Jošt Berčič: STANJE NA PODROČJU VKLJUČEVANJA JAVNOSTI V PROSTORSKO NAČRTOVANJE V EVROPSKI UNIJI: vključevanje javnosti v prostorsko načrtovanje med teorijo in prakso

*THE STATE OF PUBLIC PARTICIPATION IN SPATIAL PLANNING IN
THE EUROPEAN UNION: Public participation in spatial planning
between theory and practice*

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WORKSHOP

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MASTER THESIS

IZVLEČEK

Na področju vključevanja javnosti v postopke prostorskega načrtovanja obstaja velika razlika med teorijo v literaturi in implementacijo v praksi. Število objav in publikacij na temo participacije javnosti se je v zadnjih 15 letih vidno povečalo, kar prikazuje pomembnost in zapletenost tega področja. V članku je na podlagi pregleda razpoložljive literature narejen pregled trenutnega stanja na področju vključevanja javnosti v prostorsko načrtovanje v Evropski Uniji (EU). Raziskava je osredotočena na tri največkrat omenjena področja v literaturi: zakonodajna podlaga za vključevanje javnosti, odnos ostalih deležnikov v procesu prostorskega načrtovanja do vključevanja javnosti in pregled študij praktičnih primerov. S pregledom literature na teh treh ključnih področjih je v tem članku prikazano trenutno stanje na področju vključevanja javnosti v postopek prostorskega načrtovanja v teoriji in praksi v EU.

KLJUČNE BESEDE

javnost, participacija, vključevanje, prostorsko načrtovanje

ABSTRACT

There is a big gap in the field of involving the public in the process of spatial planning, between the description in literature and implementation in practice. There has been a notable increase of publication and literature on the topic of public participation in the last 15 years, which can be attributed to the importance and complexity of this field. In the article, we will make an overview of the current situation in the field of public participation in spatial planning in the European Union (EU), based on the review of available literature. The research is focused on the most written about areas in the literature: the legislative basis for participation, the stakeholder inclination towards public participation and the studies of practical examples. With the review of participation in those three key areas, the current state of the field of public participation in spatial planning, in theory and in practice in the EU will be shown.

KEY-WORDS

public, participation, inclusivity, spatial planning

1. INTRODUCTION

Learning from the past and the present in order to build a better tomorrow is in human nature. With this thought in mind, an overview of the current state of public participation in spatial planning has been made. The purpose of this article is not to define a new system of public participation, but to show what the current state of participation culture in spatial planning is, so that in the future, improvements can be made.

As the field of public participation is ever changing with the development of new tools and techniques, there is also a significant amount of publications in this area (Petts & Leach, 2000; Maier, 2001; Creighton, 2005; Faga, 2006; Fagotto & Fung, 2006; Callahan, 2007; Sorensen & Sagaris, 2010). A review of literature was made to determine the current state of public participation in spatial planning in the EU.

For the purpose of this article, the ideal public participation process will have to fall under Creighton's (2005, pp. 7) definition of public participation: »...the process by which public concerns, needs and values are incorporated into governmental and corporate decision making. It is a two-way communication and interaction, with the overall goal of better decisions that are supported by the public«: the other authors who tackled the definition of public participation in spatial planning are Arnstein (1969) and Eiter et al. (2014).

Spatial planning is not done according to an individual's vision, but in collaboration by the profession, developers, politics and the public. »It is a well-known notion, that the development of participatory culture mirrors the level of democracy attained in a certain society« (Lah, 2011, pp. 30). Based on this statement, a conclusion can be made that participatory culture is well-developed in all democratic states. These states have provisions in their constitutions, which ought to protect the right of their citizens to participate in decision-making, in case of long-term plans and changes in their space.

The profession's public opinion, which has political consensus, is the following: »Improving the quantity and quality of public involvement in urban design is one of the keys to improving the quality of the built environment« (Mohamed Sameh, 2011, pp. 42).

2. MATERIALS AND METHOD OF WORK

Looking at public participation in its current state, the first thing to understand are the conditions under which participation is likely to work and what it can achieve in certain circumstances. Hurlbert et al. (2015) propose the "split ladder" of participation, which is a diagnostic, evaluation and strategic tool for tackling policy problems. Their ladder is a tool that assesses when participation is likely to work, under what conditions participation is needed and suggests that sometimes the outcome of public participation may not lead to a quick consensus. The statement that every case of public participation is unique, and that it should be treated as such with its own set goals and unique process for public participation, is most likely accurate.

New tools like the "split ladder" of public participation could be the solution for a more efficient planning of public participation, and understanding of the process itself.

In order to better understand, describe, interpret and explain the current state of public participation in spatial planning, a critical reading of literature has been completed. Because of the multiple case studies and vast amounts of bibliography in this field, the overview was limited to the geographical area of the EU. The literature used in this overview was primarily searched for in the Scopus and Cobiss databases, chosen because of their accessibility on the internet and their free-of-charge use for the University of Ljubljana students. Scopus is a bibliographic database containing academic journal articles, while Cobiss is a national library information system containing a catalogue of bibliographic material in participating libraries. The key search words used in the databases on the topic of public participation in spatial planning in EU were: spatial planning, participation, public, involvement, planning, European Union, examples, legislation, case studies. Because of the vast amount of literature on this topic and to better discern the current state in the field, the bibliographic search was primarily limited to a time period between the years 2000 and 2015. This was done with the aim to get the latest and most relevant examples that could be used to explain the current situation in this field. This limitation also helped avoid examples on this subject that have become obsolete, and shifted the focus of the study to the present. If we want to understand the current state of public participation in EU, we must also look at the surrounding circumstances that helped create it. In this case, the claim is that they are mostly based in legislation and the attitude of stakeholders towards public participation.

It was determined that literature primarily revolves around three themes, important for understanding the current state of public participation in spatial planning, which are: the legislative basis for participation, the stakeholder inclination towards public participation and the studies of practical examples, which show the use of different tools and timing for public participation in practice. It can also be mentioned that according to Bizjak (2012), public participation is divided into formal and informal participation. Formal participation is mandated by laws, for example, the public unveiling. Informal participation is a form of public involvement which is not required by legislation, such as: consultations, gathering signatures, protests, workshops. This paper explores both aspects; the formal in the overview of current legislation and informal participation, which can be deduced from stakeholder attitude towards participation and study of practical examples.

- The legislative basis for public participation and what are the latest additions to it. A review of how the EU legislation translates into policies led by the EU member states has been made. From this analysis, we learn what kind of legislative support the public has for being involved in spatial planning, and how the EU legislation impacts the public participation policies led in the EU member states, as described by Baloh et al. (2014), Conrad et al. (2011) and Verovšek (2012).
- The second area of research is stakeholder inclination towards participation. The opinions of developers, politicians and the planning profes-

sion towards public participation in spatial planning are discussed, as described by different authors. From this, the climate at the stakeholder meetings can be deduced, along with the opinion of those with power over the process of public participation.

- The last segment is dedicated to the studies of practical examples. It shows how theory translates into practice on different public participation examples. Different examples of public participation in content and scale are discussed, while the project Aspern Vienna's Urban Lakeside, currently one of the biggest European urban development projects and an ongoing system of public participation, is discussed in detail.

The combined information from the above mentioned themes represents the current state of public participation in spatial planning in the EU.

3. RESEARCH AND REVIEW OF THE LITERATURE

3.1 Legislative basis for participation

Countries have different legislations on the subject of public participation, which means that the system of public participation is not the same, but in its core, all legislations serve a similar purpose, which should be to give the public an equal seat at the stakeholder table.

To see how the EU has coped with the problem of implementation of public participation in spatial planning, its legislation on this subject was considered. As stated in Verovšek (2012), the key international documents in the field of public participation are: the Aarhus convention (1998), the Bristol accord (2005) and the Leipzig charter (2007), to which Europe 2020 (2010) needs to be added, a strategy for smart sustainable and inclusive growth, which was adopted by the European Commission in 2010, and the European Landscape Convention (ELC), which came into force 2004 and was ratified in 2011 by 33 EU member states and signed by additional five. All directly or indirectly call for the active participation of citizens in procedures of spatial planning and simultaneously warn about the necessity of improving the dialog between authorities, inhabitants and the economic sector. »There is, however, evidence from the literature of a gap between participation rhetoric in policies and participation as practice at the operational level« (Conrad et al., 2011).

Including guidelines from EU directives into the legislation of an individual member state is the duty of each state's current political authority. Therefore, the result of how well the directives are implemented and incorporated into legislation is a reflection of political will and credibility, as well as the state of democracy in a nation. Baloh et al. (2014) write about the differences in legislation in the field of public participation in spatial planning in the EU states. Here, comparison between selected EU member countries on this subject makes it clear that there are significant differences in legislations inside the same framework of directives that have been mandated by the EU.

Differences in legislation between the states are to be expected; each country has its own history and tradition in spatial planning from which its laws are derived. The problem is not the differences between the legislation

of member states, but the difference between the states' legislation and the EU-given guidelines. There is too much maneuvering room when applying the standards set for the before mentioned conventions; they are interpreted too loosely during their implementation into a EU member states' legislation. Research has already been made on the state of public participation through the implementation of the ELC by Conrad et al. (2011) and Eiter et al. (2014). They use a 5 step grading process developed by Conrad et al. (2011) to evaluate the state of public participation as described in the ELC. Conrad et al. (2011) write that the problem of the ELC is the various ambiguities in the text of the convention and its explanatory report, which allows for ample room for different interpretations of the precise requirements in practice. De Montis (2014) in his study confirms that the implementation of ELC, as all legislations before it, is highly dependent on local government systems and the traditions that dominate landscape planning.

The laxity of the EU legislation allows different planning approaches to appear in different countries across Europe, which are mostly based on each country's cultural heritage, some more inclined to public participation than others, with the minimum requirements of the EU legislation. As an example, Busch et al. (2009) describe 3 different planning approaches within the EU: Netherlands, Denmark, Sweden.

In the case of EU member Slovenia, Lah (2011) states that the guidelines from EU directives and conventions were completely minimized and inadequately interpreted when they were being incorporated into legislation. It needs to be added that the guidelines in Slovenian legislation are scattered among several laws, which is why they are harder to comprehend and are more open to interpretation, which is not always good. »Public participation in the process of making spatial plans and other interventions in space is a part of the democratic process. However, it depends on the creators of the process, how high this participation will be« (Bizjak, 2012). From the quote, it cannot be divulged that there has to be a will for participation and collaboration, legislation alone is not enough to ensure good participatory practice.

The legislatively mandated rate for including the public is too low. Consequently there are complaints which lead to long-lasting and long-winded processes (Lah, 2011). The public has to be included in the process of planning from the very beginning when the plan is still being formed. Later in the process, most matters are already settled, and changing them would require a long-lasting procedure, which is why the opinions and remarks of the public are generally not taken into account. Because of such procedures, the public becomes unmotivated for cooperation and does not respond to invitations for cooperation in planning in large numbers. This phenomenon can be named: The plummeting of participatory culture.

The EU legislation in its current state, on the subject of public participation, is lacking and leaves a lot of room for interpretation when being incorporated into the member states' legislation. The logical solution for a better and more frequent inclusion of the public in EU spatial planning is a change of the legislation, if not even a new law, which would entirely encapsulate public participation in planning.

3.2 The stakeholder inclination towards participation

We can deduce the attitude of the stakeholders towards public participation from a study done by Falleth et al. (2011) on public participation in urban development in Norway. »The planning administration and local politicians, who represent planning expertise and common ideals, appear to value participation, seeing it as an important part of democratic decision making process. Developers are far less likely however to view community participation as an important element of the planning process. They rely to a greater degree on an economic rationale, with planning seen more as a necessary administrative check-box before construction can get under way« (Falleth et al., 2011). From the Falleth et al. (2011) study, it can be deduced that not all stakeholders in the process of spatial planning feel the same way about public participation and its role in decision making. It is apparent that there is an ongoing struggle in the process of public participation between capital and human rights, which we can call a crisis of values. In the case presented by Falleth et al. (2011), we can see the before-mentioned crisis of values, where the opinion of the capital matters more than the consensus of the people.

In his study, Connolly (2005) addresses the inefficiency of the public participation system, the view of politicians and policy makers: »Policy makers naturally act to protect and promote familiar kind of public involvement: local, limited in its participants, late in policy-making processes, consultative and rather than binding and involving issues that are not challenging to the mainstream of the local authority. Moreover, behind the scenes processes control what can be discussed and what action is taken as the result of discussions taken in public forums, all framed within limiting sets of ideas either explicitly or unconsciously put in to place by the initiators of the process«.

This article will focus mostly on the planner, as the one with the most expertise in this field and as the person involved in the project that should maintain neutrality to all stakeholders in the process; the planners' only goal should be the quality of the project. However, maintaining neutrality and complete professional focus is difficult, because the planner is often in the employment of the developer of the project, whose goals are usually purely economic.

The prevailing view is that the public should be included when this is explicitly required by law. It is well known that public participation makes the planning process longer and more expensive. Nonetheless, we as planners are obligated to include the public, because ethics demands this from us (Ogorelec, 1990). Our opponents on this point are always going to be capital and politics, which accelerate the planning process to execution, even though that is not always in their own interests. According to Douglass et al. (1998), planners are put under pressure. »Choose the community and you are choosing professional death. Choose to work for the state and you retain your professional identity, but don't delude yourself about whose interests you are serving« (Douglass et al., 1998). Planners have to conduct their work objectively and have to act strictly in accordance with professional and moral values, only in this way they can justifiably and suitably do their work.

Falleth et al. (2011) argue that the problem with the attitude towards participation starts with the planning theory. »The planning literature tends to see the planner as the core actor in planning and planning as a universal tool for development. The planner is not the conductor in planning, and planning is one among many processes in urban development. We argue that much that passes for planning theory has, in reality limited the focus on important actors, processes, power and interrelations in urban planning research« (Falleth et al., 2011).

If the statements on planning theory by Falleth et al. (2011) are accepted, that could translate into the attitude described by Ogorelec (1995, pp. 11): »Many spatial planners consider their work as expert-technical, which can only be done by experts. The interference of laymen endangers the profession's autonomy and causes the degradation of urbanism and architecture«. Unfortunately, people in positions of power who believe that their work is untouchable and irrefutable can always be found. Nowadays the profession teaches us that: »Public participation is a key requirement for social acceptance of spatial intervention and with that for the realization of plans, for the success of spatial planning outcomes, discipline and respect for legal norms in space as well as humane urbanism in general« (Pogačnik, 1999). In spite of this, most planners hesitantly prepare to cooperate with the public, since the disadvantages of participation are often reverberated louder than the advantages.

»The idea of citizen participation is a little like eating spinach: no one is against it in principle because it is good for you« (Arnstein, 1969). Ogorelec (1990), Pek Drapal et al. (2001) and Pogačnik (1999) wrote on the inherent positive and negative sides of public participation.

However, regarding uncertainty about participation when we have an unpredictable variable such as the public in the equation, we have to rely on Habermas concept described in Douglass et al. (1998) named "The leap of faith", involve the public and enable them to have as much decision-making power as possible, while giving them the benefit of the doubt that they will be working with the best intentions for the greater good.

3.3 Studies of practical examples

It is evident from the literature that the selection of the tool used for participation has the biggest impact on the scale and type of public participation. Many authors are doing research and developing new digital systems for participation (Goodchild, 2007; Tulloch, 2008; Boroushaki et al., 2010; Brown et al., 2014). However the human factor in public participation should not be forgotten, the best public involvement should still be based on human contact: workshops, roundtables, interviews... Technology should be viewed only as a tool that is used to achieve the desired result. There is a danger that preoccupation with technology will distract from the effort, required to meaningfully engage the under-represented people in the land use planning and management. Effective public participation requires more than innovative technology (Brown et al., 2014).

Arciniegas et al. (2012) describe the use of an old approach in the land use planning but with the use of new tools for public participation. They

put forward a question: How can spatial decision support tools meet the requirements of a collaborative land use planning workshop? They describe a series of collaborative land use planning workshops for a peat-meadow polder in the Netherlands. Stakeholders were invited to work together and carry out planning tasks using spatial decision support tools implemented in an interactive instrument the touch-table, at three workshops at different points of the land use planning process. The implementation of the touch-table yielded positive results by quickly and efficiently informing and educating the public on the proposed plan.

Busck et al. (2009) look at different planning in Roskilde municipality in Denmark, Staffanstorp municipality in Sweden and the WERV area in the Netherlands, all of which represent different advantages and disadvantages. » A top-down planning approach may ensure uniform and efficient implementation of planning policies by lower planning tiers, but may disregard local needs and differences. On the other hand, while a bottom-up approach may be more responsive to local need, it may also weaken effective planning and locally based decisions may be in conflict with national interest« (Busck et al., 2009).

Ledivin et al. (2010) study of the Botanique structure plan in Brussels goes into details of the informal part of the public participation process. In their opinion, timing is important for the most effective public participation to occur. The launch of the structural plan happened in the morning at a press conference open to all. The nearest residents were personally invited to attend an afternoon cocktail party, to discuss the proposed plan in an informal setting. After that, a series of participation workshops and informal meetings were conducted, which showed a struggle between the public and private sector. Through the media, it became clear that wheeling and dealing was going on at the informal meetings. At the second stakeholder meeting, tempers were high because of public distrust and sense of betrayal towards the other stakeholders, which led to the third meeting being canceled and the implementation of a top-down planning system for this project. According to Ploštajner (2003), the situation which has arisen can be attributed to poor communication among the ones involved, especially when the public is poorly informed or has a feeling that it is in an inferior position, that their remarks and arguments will not be heard or taken into account. In such cases, it can happen that a project is rejected in advance. Despite this, we have to remember that: »Resolving conflicts through dialog is one of the main characteristics of modern democracies. The public has a recognized status as a partner and that is why the process of participation is more important than the results« (Pek Drapal et al., 2001). Ledivin et al. (2010) conclude the study with the thought that keeping the public and private sector at the same table talking is an accomplishment in itself and that clear rules have to be set at the start of the process -what is open to deliberation, what is negotiable and what is not.

This article takes a closer look at the Aspern Vienna's Urban Lakeside project, which is located in Austria. It was chosen because it is currently one of the largest ongoing development projects in Europe and has already received awards and mentions for spatial planning and the involvement of the public. The area of the development covers 240 hectares of a former

airport in the northeastern part of Vienna. Planning began in 2007, the start of construction was in 2008, with the scheduled completion of the project in the years 2024 to 2030 (Aspern ..., 2013). The aim is to create a new, multifunctional urban quarter for Vienna – with apartments, offices, service providers and an industry, science, research and education quarter.

Before the project began, the investors and planners set two main guidelines, which they believed needed to be followed in order to create a city of the future. They believed that planning should be organized as the city itself: multifaceted, multifunctional, transparent, open... and besides that, there was a need to build on the identity from the outset of the project, even before it was realized. They believed that the identity is built on cooperation, through dialogue, and its aim was to achieve a space of shared values, actions, and respect (Johannes, 2009).

The public was involved in the planning process in the early stages of the collection of basic concepts, in the so-called City labs. Various stakeholders were invited to participate in discussions, with the aim to provide their opinion on the project. Concurrent with the first presentations of the conceptual project, a workshop for the creation of brand visibility of the project brand was organized, which later made it easier to present and promote the project in public. This phase was also open to the public. For a productive dialogue with the public they needed a good basis. To this end, they produced a study of the environmental impact, a traffic study, a mobility study, etc.. Professional projects and studies were presented at the round table and are always on display in the information center, which is located in the construction area. To bring the project closer to the public, they needed to ensure the transparency of the process and to attract the existing residents, so they could identify with the space on the location itself. To this end, they allocated parts of the construction site for land art exhibitions and workshops (Johannes, 2009) and opened them to the public.

The project Aspern Vienna's Urban Lakeside is being carried out according to the expected schedule, with a relatively strong support of the local community. This success can be attributed to the project due to the early and comprehensive public involvement, openness and transparency in all phases of planning and construction, good creation of brand and space identity, to which the public can form an attachment, and the innovative way of promoting the project already prior to construction. The method of the inclusion of the public in the planning process does not merely follow the law, but builds on it. The designers of this project believe in the slogan that the settlement in the future will be built with the people for the people.

Methods of participation vary depending on the type, scale and location of the project as well as resources and time allocated for public participation. In the study which looks at different case studies on planning approaches for urban areas in multiple countries, Busch et al. (2009) come to the conclusion that the results reveal significant differences in approaches, reflecting variations in the public involvement in urban planning.

4. DISCUSSION

From the overview of the literature in the three key areas that impact public participation, it can be concluded that public participation in spatial planning is currently at a breaking point between defining public participation and implementing that theory in practice.

The overview of legislation showed that the participation process is currently not sufficiently regulated by law in the EU; the problem is that too many areas are left open to interpretation. Each EU member state interprets the EU legislation differently and then they incorporate it into their national legislation, which leads to variations of the public participation process conducted in different states. There is also a lack of a coherent system which would help determine in which situations public participation is probable or even possible and what are the likely outcomes; an example of such a system is proposed by Hurlbert et al. (2015) in the “split ladder” of participation.

If participation relies on the interpretation of the legislation of the person in charge of the planning process, then it can be said that public participation highly relies on the will of the people in charge. The current stakeholder opinion on public participation, according to the reviewed literature, is:

- Developers are mostly against participation; their main interest is purely economic. The developers are afraid of unforeseen circumstances when involving the public, which can prolong the development of the project, make them miss their deadlines and increase project costs.
- Politicians have a mixed feeling about participation; they just want the public consensus, not a two way dialog. Their aim is to finish the project as smoothly as possible and in-depth public participation process could bring forth issues that aren't in their best interest.
- Planners can be divided into two categories; some think that their work is untouchable and irrefutable and view public participation as a necessary evil dictated by legislation, and others view participation as a way to gather more information and opinion to legitimize and better the project. Planners also have a problem because they are trapped between the developer who wants to expedite the process, and their professional moral code. There is the question whether the planners would be more inclined towards public participation if they had a better legislative basis to fall back on when presenting the planning process to the developer.

From the growing number of literature on the subject of participation it can be deduced that, in academic circles, there is a growing awareness of the importance of public participation and the gap between theory and practice. Even now, the stakeholders do not oppose participation; they are against the things that come with it in the current situation: delays and resources. It can be predicted that the stakeholders' opinion will probably change in time and there will be more examples of good practice, which will help optimize the process of participation.

In practice, public participation process varies from project to project, as shown in the examples from the literature. However, incorporation of the

public in to the planning process appears to be getting easier in practice, due to the development of new tools and techniques such as the touch-table, City labs and branding process. It can be observed that in the current state, most of the public participation process is conducted in the form of an informal process, with the will of the stakeholders to go beyond the legislative framework of public participation.

It was surprising that so many processes and tools were developed to involve the public, most of which are being successfully implemented at different stages of the informal planning process. What is lacking is the legislative system – the framework for public participation, which would allow for the use of different tools at different stages depending on the projects needs.

5. CONCLUSION

This article discusses the current state of public participation in spatial planning in the EU. The review of the literature in three key areas was used to determine the surrounding circumstances that helped create the situation that we have today. The current state of discord in this field represents the first step from theory into practice. A common saying applies to the current state of public participation in spatial planning: for there to be order, there must first be chaos. The review of the literature and the examples show some existing obstacles in this area, which need to be overcome in order for this field to advance. With frequent legislative changes and the development of new tools, public participation is an ever changing and growing field, which will get more defined and better managed in time and with more experience from practical research.

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