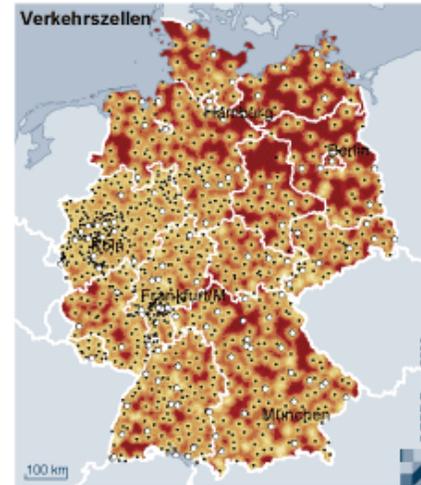




### Erreichbarkeit von Oberzentren



### Erreichbarkeit von Mittelzentren



**Pkw-Fahrzeit zum nächsten Oberzentrum 2004 in Minuten**

Light yellow	bis unter 15
Yellow	15 bis unter 30
Orange	30 bis unter 45
Dark orange	45 bis unter 60
Red-orange	60 bis unter 75
Dark red	75 und mehr

**Pkw-Fahrzeit zum nächsten Mittel- oder Oberzentrum 2004 in Minuten**

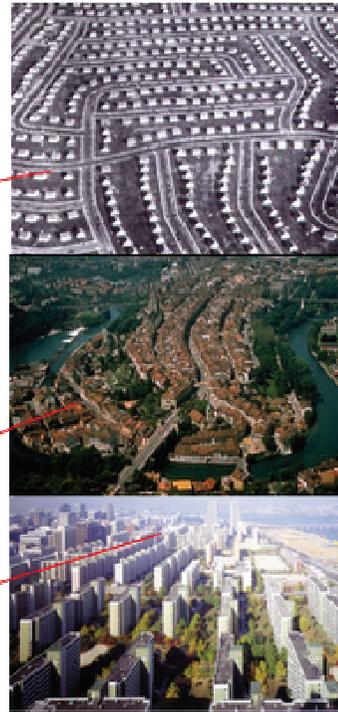
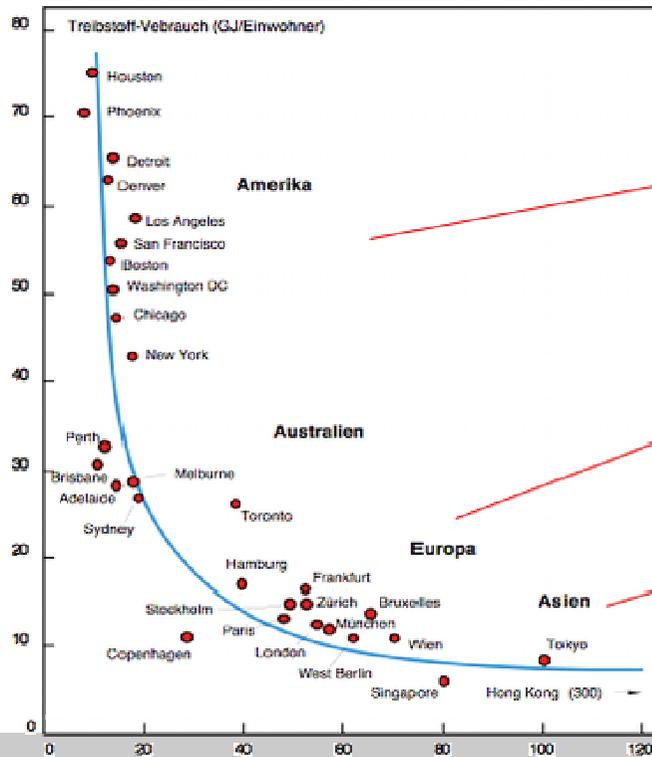
Light yellow	bis unter 5
Yellow	5 bis unter 10
Orange	10 bis unter 15
Dark orange	15 bis unter 20
Red-orange	20 bis unter 25
Dark red	25 und mehr

Datenbasis: Erreichbarkeitsmodell des BBR  
Geometrische Grundlage: BKG

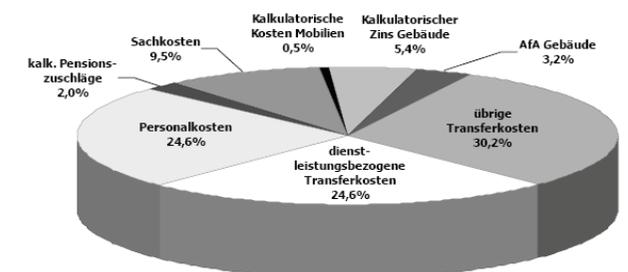
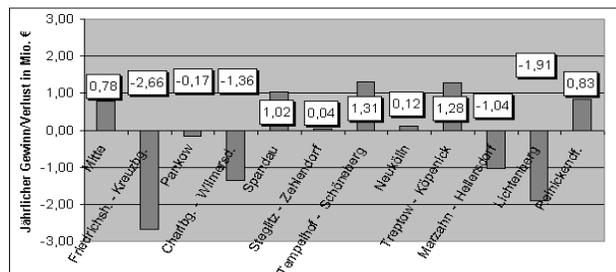


***of the need for sectoral-wide town-planning standards for***



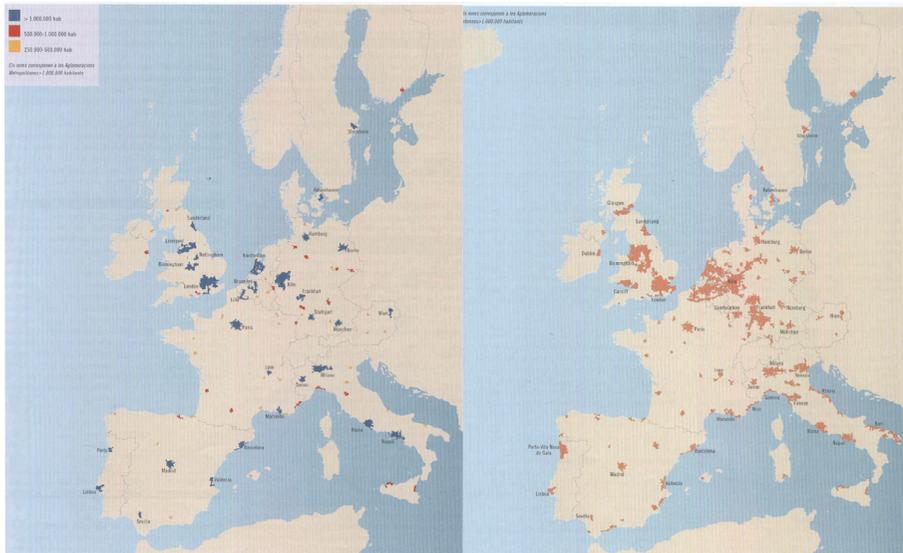


**application to plans (Germany) and government acts (Catalonia)**





## of the need for sectoral-wide town-planning standards for application to plans [GERMANY] and government acts [CATALONIA]



Nowadays Berlin is a *Land*, one of Germany's 16 *Länder*. Like Hamburg and Bremen, Berlin is a city-state, with the powers and responsibilities of a *Land* which must be combined with the local functions of a municipality.

[1, on the contrary that it seems to be the "Free Hanseatic City" has no legal signification]

Berlin offers a very complete understanding of the federal system of power as, in addition to the aforementioned responsibilities, it has also been responsible for governing the German nation since its reunification.

**Germany is a state with a long history of public policies.** It enjoys active and enterprising government - on both the national scale of the *Bund* (federation of states), and the regional scale of the *Länder* (each of the individual federal states) - government suitable for a country that innovates and takes care of its industry - the motor of the country, and generator of *real wealth*.

The *authentic wealth* of a country comprises those well-managed assets that are lasting over time, bringing value added benefits. We cannot include within this activities so unrelated to business as *buying and selling property*, which have a large presence in countries where there is a weak industrial sector, such as Spain. The resulting commercialisation of land and real estate leads to highly cyclical and uncertain economies with a highly speculative component.

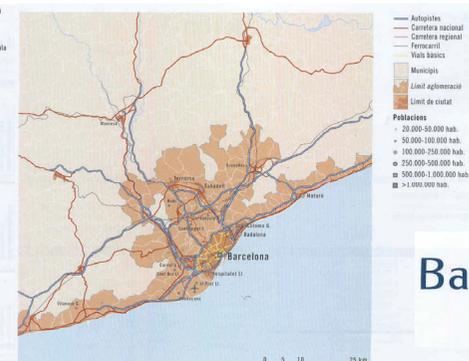
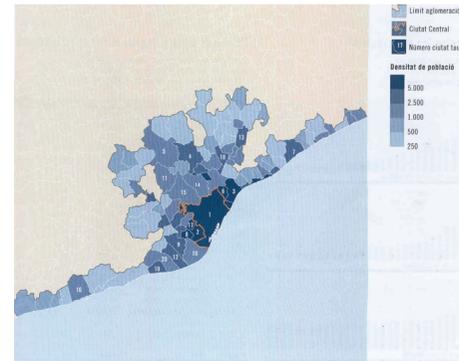
Behind the described economic situation we find a few strong private segments that dictate the economic pace of the country, in the tenuous shadow of a government that delegates town planning initiative - among other activities - to private actors, generating very debatable legitimacies and responsibilities.

Governments that are, generally speaking, without leadership, mainly inactive, typical of countries with a traditional lack of public policies.

The restoration of Berlin as the capital of Germany and its prominent position at the centre of Germany's metropolitan areas created great expectation in the Nineties, focusing the incipient transformation on a model of city that could compete on an international level.

**The plans were for a great Berlin, the great service city needed by Germany, and also by Europe.** The vast tertiary sector growth taking place was believed to be the ideal complement to the political load represented by triple administration (*Bund*, *Land* and municipality) borne by the city.

Font: Papers, n° 37. 'Grans Aglomeracions urbanes europees'. Mancomunitat Municipis de l'Àrea Metropolitana de Barcelona, 2002.



# Barcelona

## Dimensió segons diversos estudis

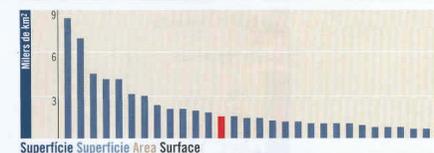
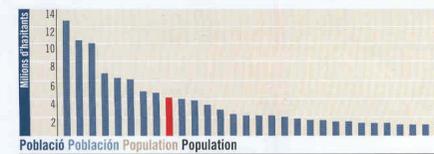
Dimensión según diversos estudios  
 Size according to different studies  
 Dimension suivant diverses études

Font	Any	Població	Superfície	Densitat
GAME	1998	4.103.470	1.575,7	2.604
NUREC (1)	1994	3.195.918	440,0	7.263
NNUU	1996	2.800.000		
URBAN AUDIT	1996	2.904.941		4.802
Source	Year	Population	Area	Density
Source	Année	Population	Surface	Densité

(1) Considera quatre aglomeracions separades: Barcelona/Hospitalet de Llobregat (2.585.722), Sabadell/ Cerdanyola del Vallès (350.623), Terrassa (158.063) i Mataró (101.510).

## Posició entre les principals AM

Posición entre las principales AM  
 Position among the main MA  
 Position entre les principales AM



## Distribució de la població segons la dimensió dels municipis

Distribución de la población según la dimensión de los municipios  
 Population distribution according to the size of the municipalities  
 Distribution de la population suivant les dimensions des villes

Número d'habitants	Municipis	Població	% Població
>5.000.000	0	0	0,0
2.000.000-5.000.000	0	0	0,0
1.000.000-2.000.000	1	1.505.581	36,7
500.000-1.000.000	0	0	0,0
200.000-500.000	2	458.127	11,2
100.000-200.000	4	574.736	14,0
50.000-100.000	9	535.721	13,1
20.000-50.000	5	458.802	11,2
<20.000	62	570.503	13,9
<b>TOTAL</b>	<b>93</b>	<b>4.103.470</b>	<b>100,0</b>
Number of inhabitants	Municipalities	Population	% Population
Nombre d'habitants	Villes	Population	% Population

## Principals ciutats, segons el nombre d'habitants

Principales ciudades, según el número de habitantes  
 Main cities, according to its number of inhabitants  
 Principales villes, suivant le nombre d'habitants

Núm.mapa	Ciutat	Població	Superfície	Densitat
1	Barcelona	1.505.581	98,2	15.332
2	Hospitalet de Llobregat, l'	248.521	13,6	18.274
3	Badalona	209.606	21,0	9.981
4	Sabadell	184.859	37,6	4.916
5	Terrassa	165.654	70,2	2.360
6	Santa Coloma de Gramenet	120.958	7,1	17.036
7	Mataró	103.265	22,3	4.631
8	Cornellà de Llobregat	80.329	6,8	11.813
9	Sant Boi de Llobregat	78.632	22,1	3.558
10	Prat de Llobregat, el	62.514	31,5	1.985
11	Rubí	55.728	32,2	1.731
12	Viladecans	54.840	20,1	2.728
13	Granollers	51.600	15,0	3.440
14	Cerdanyola del Vallès	51.305	30,8	1.666
15	Sant Cugat del Vallès	50.529	48,3	1.046
16	Vilanova i la Geltrú	50.244	33,9	1.482
17	Espplugues de Llobregat	46.304	4,5	10.290
18	Mollet del Vallès	44.170	10,8	4.090
19	Castelldefels	41.194	12,8	3.218
20	Gavà	38.813	30,9	1.256
Numb.mapa	City	Population	Area	Density
N° carte	Ville	Population	Surface	Densité

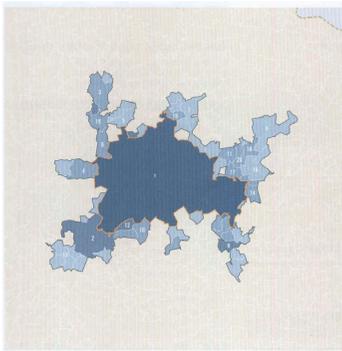
These economic opportunities, the fruit of reunification, were accompanied by a scenario of exceptional population growth. It was estimated that the population would increase rapidly over the following decades and that there would be a growing demand in the residential real estate market. The *construction boom* would therefore have two motors, the tertiary and the residential, one the consequence of the other.  
 [2, more capacity to burden and economic assignments according to the planned projects, as tools to stimulate the local authorities to keep active]

Only months after the fall of the wall, the Berlin Bund and Land governments initiated numerous joint projects of enormous proportions for the entire city. The belief that Berlin was one step from becoming a *global city* and *capital of Europe* meant that these government projects proceeded on the blind faith that they would soon find the necessary backing and support from the private sector. The demand for offices and land in the centre of the city triggered an investment fever resembling that experienced in the multiple residential sectors planned for in strategic parts of the city.

Since reunification and in light of the thinking described above, Berlin has undergone a significant transformation and witnessed radical change on both social/spatial and economic/political levels. However, by contrast with the forecasts for growth, under an ongoing economic stagnation. An economic crisis that is furthermore widespread.

The ordinary citizen has watched the labour market in the private sector shrink considerably since the Nineties. To a great extent this has been due to the change in economic strategy aimed at the tertiary sector, which has provoked the premature closure of many manufacturers. In East Berlin, the disappearance of industry subsidies has accelerated the closure of companies located in the eastern half of the city. The transformation of Berlin's political system has also had its effects on employment. Positions in the public sector have also been affected, as with reunification the whole body of civil servants in East Berlin has ceased to have a purpose as such. These and other factors have meant that unemployment has been rising since the Nineties, polarising the distribution of income across the population, with, as one would expect, important social consequences.

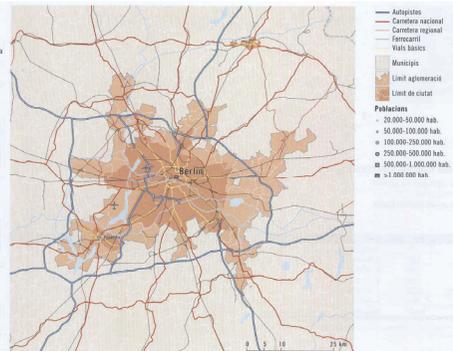
At the opposite extreme, the public sector is also suffering the effects of the economic crisis. This is particularly concerning for a prolific administration that takes charge of most of the city's economic projects, including town planning activity.



### Dimensió segons diversos estudis

Dimensión según diversos estudios  
Size according to different studies  
Dimension suivant diverses études

Font	Any	Població	Superfície	Densitat
Fuente	Año	Población	Superficie	Densidad
GAME	1997	3.995.074	1.845,3	2.165
NUREC	1994	3.750.845	1.495,5	2.508
NNUU	1996	3.300.000		
URBAN AUDIT	1996	3.458.763		3.879
Source	Year	Population	Area	Density
Source	Année	Population	Surface	Densité



### Distribució de la població segons la dimensió dels municipis

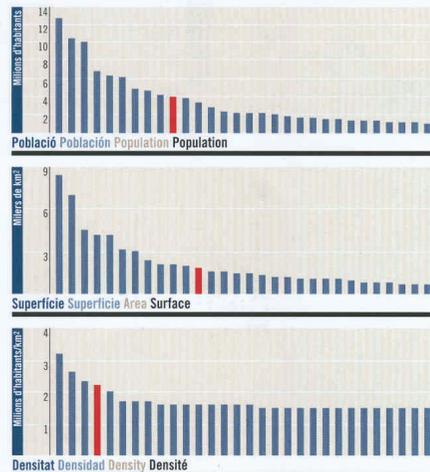
Distribución de la población según la dimensión de los municipios  
Population distribution according to the size of the municipalities  
Distribution de la population suivant les dimensions des villes

Nombre d'habitants	Municipis	Població	% Població
Número de habitantes	Municipios	Población	% Población
>5.000.000	0	0	0,0
2.000.000-5.000.000	1	3.425.759	85,7
1.000.000-2.000.000	0	0	0,0
500.000-1.000.000	0	0	0,0
200.000-500.000	0	0	0,0
100.000-200.000	1	131.851	3,3
50.000-100.000	0	0	0,0
20.000-50.000	5	130.613	3,3
<20.000	47	306.851	7,7
<b>Total</b>	<b>54</b>	<b>3.995.074</b>	<b>100,0</b>
Number of inhabitants	Municipalities	Population	% Population
Nombre d'habitants	Villes	Population	% Population

## Berlin

### Posició entre les principals AM

Posición entre las principales AM  
Position among the main MA  
Position entre les principales AM



### Principals ciutats, segons el nombre d'habitants

Principales ciudades, según el número de habitantes  
Main cities, according to its number of inhabitants  
Principales villes, suivant le nombre d'habitants

Núm.mapa	Ciutat	Població	Superfície	Densitat
Núm.mapa	Ciudad	Población	Superficie	Densidad
1	Berlin	3.425.759	890,8	3.846
2	Potsdam	131.851	109,3	1.206
3	Oranienburg	29.641	45,8	647
4	Falkensee	27.393	43,3	633
5	Strausberg	26.616	67,9	392
6	Hennigsdorf bei Berlin	23.955	24,6	974
7	Bernau	23.008	55,2	417
8	Königs Wusterhausen	17.547	15,9	1.104
9	Hohen Neuendorf	16.089	37,5	429
10	Teltow	16.021	21,5	745
11	Neuenhagen bei Berlin	12.982	19,6	662
12	Kleinmachnow	12.715	11,9	1.068
13	Werder/Havel	12.502	27,6	453
14	Erkner	12.209	16,6	735
15	Velten	12.161	23,0	529
16	Rüdersdorf b. Berlin	10.839	38,2	284
17	Schöneiche b. Berlin	10.363	16,6	624
18	Petershagen/Eggersdorf	10.040	17,5	574
19	Zepernick	9.210	13,0	708
20	Fredersdorf-Vogelsdorf	8.999	16,4	549
Numb.map	City	Population	Area	Density
N° carte	Ville	Population	Surface	Densité

Today, the Berlin *Land* government finds itself in serious debt. In order to attract private investment, and bring greater swiftness to property development procedures, the government has - in collaboration with the *Bund* government - funded the majority of large-scale projects of this new phase, financing the initial costs of development, capital which is to be returned upon the later sale of the property.

The sale of said property is in many cases still pending today, **adding to the stock of real estate - both residential and tertiary - and consequently the government's debt.**

The federal government is no longer able to take charge of further projects requiring significant economic investment, now having to focus more than ever on the functions strictly attributable to it as a government: educational, social and in particular cultural policy, the latter always having been the most important element in governing this city.

[3, economic compensation between lands for the development of public policies can't mean absolute financial leveling]

In crisis situations the private agent gains in prominence and power: if it is not national investors it will be international investors who will benefit from the critical economic situation to deposit their capital. This **power of the private investor is a cause for concern, especially due to the lack of a legal framework for minimum standards in the weighting of public and private interests.**

**The safeguarding of these interests, which are at the foundation of all German town planning, is in danger.**

**This balance between benefits and drawbacks - public and private - linked to the promotion of town planning, is not protected then by town planning legislation, rather by the framework of urban development plans.**

A strong private agent, or more commonly, a property investor in control of the situation, when faced with a weakened government drowning in debt, will always negotiate to lower the economic load the latter attributes to them. **This endangers the quality of urbanization, the amounts allocated to parks, public squares, but above all facilities, the most expensive parts of the whole public park.**

The assessment of collective needs is neither an easy task nor one which has a single solution. In this respect, however, **Germany has something of a guarantee: a country with a long tradition of pre-measuring its social infrastructures and which bases the forecasting of its needs on standards or guiding values (OW) and governing values (RW) for most of the public park facilities.** These standards are duly complemented by sectoral analysis and plans.

The existence of all of these instruments will make it less likely that there will be a loss of public potential in social infrastructures.

Font: Papers, n° 37. 'Grans Aglomeracions urbanes europees'. Mancomunitat Municipis de l'Àrea Metropolitana de Barcelona, 2002.

Even though Spain and Germany have very differing economic scenarios, albeit with similar political frameworks, identical processes are triggered in the marketplace due to coinciding governmental stances, despite their arriving from opposing sides.

Thus, whilst attempting to digest the current crisis, the German governments assume *basic functions*, awarding and giving centre stage to the private agent in the *more classic functions* of this omnipotent government: economic initiative and projection.

We must underline the **benevolent role that this government must adopt, providing an easy route free from hindrances for the few private agents that move the economy along despite the difficult situation.**

This is where we Catalans and Germans can establish a dialogue that should lead us to a valuable exchange of knowledge and experiences.

**In Spain, the real estate industry**, (to award it a name with minimally productive connotations) **is the country's main economic motor, and not due to an economic crisis** like the one described. The *property business* in Spain has a long tradition due to its not having undergone complete industrialisation at the appropriate time; contrary to the needs of the country, it has been the refuge of a large part of the business sector.

Investors in this country have always seen many virtues in *real estate*: a business always with safe value, generator of added value and creator of an important labour market of the contractual, flexible type.

We should not be surprised that this private sector has set the economic pace of the country since the frustrated process of industrialisation. Neither should we be surprised that the first Land Act of 1956 required this private body of land *accumulators* to assign to the government some 10% of the area to be developed, to be allocated to green zones. We can even find evidence of this prior to the aforementioned Act: the ultramodern ruling of 1924 (see Chapter 1) even required land assignment for health, sports and school facilities

**The German legislator may need to start thinking about introducing regulatory mechanisms for obtaining public land in proportion with private use.**

In their status as architects or legislators, we Catalan town planners can bring all of the resources we have at our disposal to establish control mechanisms for public land assignment in the face of continued land mobilisation by the private sector.

In the opposite direction, **German planners can no doubt explain to us the potentialities of their plans and programmes, as well as all instruments relating to and learnt from these: from the drafting of sector studies and plans for all of the aspects to be addressed in terms of planning, to the appropriate use and design of different town planning standards.**

[1] BALADO RUIZ-GALLEGOS, Manuel (2005). *La España de las autonomías: reflexiones 25 años después*. Barcelona : Bosch. P. 786

Unlike Spain, in Germany doesn't live 'nations' with particular languages, although *Länd* are different in their traditions, in their social structure, economic situation and politic orientation. Some *Länd* have high levels of auto-identification in accordance to their historic roots, like Baviera or Hamburg. The denomination as "Freistaat" (Free State) or "Freie und Hansestadt" (Free Hanseatic City) has no legal signification. In addition to this, all *Länd* are specifically listed in the preamble of the Fundamental Law (FL), completed in 1990 in reason of the German unification. This constitutional definition doesn't obstruct, in case of fusion of some *Länd*, the arising of a new *Länd*. The FL doesn't exclude, on the contrary, promotes such realization in order to boost the financial situation of the relative important number of small *Länd*.

[2] ARROYO GIL, Antonio (2006) *El Federalismo alemán en la encrucijada: sobre el intento de modernización del orden federativo en la República Federal de Alemania*. Madrid: Centro de Estudios Políticos y Constitucionales: Fundación Manuel Giménez Abad de Estudios Parlamentarios y del Estado Autonómico. P. 128

(...) g) to decrease the reach or to abolish the common tasks and consequent redefinition of the financial relations between the Federation and the *Länder* in the basis of the principle of connection ("who spends, pays" or, said differently, "the spending charge must follow the charge of tasks": art. 104 a.1 GG), with the intention to reduce the "mixed financing" and to accentuate the margins of autonomous action of *Länder*, giving more burdening abilities.

Till now the principle of connection, provided in the article 104a.1 GG, as it's understood by the dominant doctrine, is developed in the frame of a new model of executive federalism, in a way that the Federation can -by law- establish some tasks that *Länder* (and/or municipalities) must accomplish, being this ones also those who must assume, in some cases, the economic charges associated to this tasks.

This is what is known as administrative accessority (*Verwaltungsakzessorietät*), in opposition to the called legislative causality (*gesetzgebungskausalität*), which estimates that the financial charges must be supported by who is in charge of the correspondent legislative capacity.

In front of this situation not much satisfactory, the ideal won't be other than to apply the principles of the fiscal federalism to the German financial model, in a way that tasks, spendings and incomes could be indissolubly joined. With this, it will be achieved moreover, to introduce bigger doses of transparency in the financial order, that in the last decades have been characterized for their arising complexity, what has derivate furthermore in an enormous difficulty in the moment to define the correspondent liabilities of the Federation and *Länder* in the financing of public tasks.

In the other hand, it will be avoided that *Länder* continue being so dependant of the Federation's giving, who merely decides what is "good" for them, in accordance to a model of federative relations that Stefan Hombrug, teacher of public finances from Hannover University, has qualified as very paternalist, adding that doesn't beneficiate to de development as entities with statal character.

[3] op.cit. 1, p.787

In the frame of the horizontal distribution of the impositive incomes it's showed an inequality between the different *Länder*. Those that have a large number of inhabitants receive more than the others that have less. To compensate the financial capacities in the federal system, exists a financial compensation: the rich *Länder* must compensate, to a determinate level, the deficits of the poor *Länder*. The German Constitutional Tribunal has criticized this system, that has originated a progressive reduction of the financial level of the rich *Länder* with the result that they are, comparing with poor *Länder* (who have received the economic aid), in a lower position. The Constitutional Tribunal has accepted the idea of a competitive federalism and has highlighted that the financial compensation can't be an absolute leveling, although a progressive adaptation. This means that *Länder* with more financial incomes who reside in a more attractive situation for companies must enjoy this advantages more than before. In some way, the plurality and diversity prevail. But the original idea solidarity and aid between members of the Federation continues unaltered.

## **economic crisis endangering the foundations of German town-planning: 'weighting scheme for public and private interests'**

We could say that there are as many models of power for town planning as there are countries, although if we are to oversimplify matters, we can say there is one basic or bi-dimensional model and one model which is more hierarchically three-dimensional.

The basic model is composed of two levels or authorities: the municipal and the State levels, therefore more suitable for individual States, such as the French, UK and Swiss models, among others.

By contrast, the three-dimensional model has a third functional level that intercalates with the two aforementioned levels, a plan that we could call *regional*, more common in federal states, which is obviously the case with Germany, but also Holland and Spain.

In this polarised simplification of two models of power in the sphere of town planning, we find that in both cases on the State level there are laws relating to supramunicipal territorial planning and the statutory auditing of town planning and its application. Powers that, in the case of the three-plan model - with its regional level - can be delegated to said level, entitling this intermediary body to approve and execute planning projects and produce instruments for town planning auditing.

**Spain and Germany share a power with three levels, where *Autonomous Regions* and *Länder* constitute a decentralization of power in their respective central governments with regard to town planning and other areas.**

[4, Two different ways to understand federalism: national-cultural or financial-organizational]

[5, competitive federalism vs cooperative federalism]

**The main differences between the two countries reside in *tutela municipal* (municipal guardianship) whereby, in the case of Spain - and as we have seen in chapter 2 - for some matters powers lie in the hands of the central government.**

This is not the case in Germany. It is the *Länder* that carry out all of the supramunicipal functions and not the Federation. The German system of power forms a perfect hierarchical pyramid; levels of responsibility that correspond with the funding allocated to them.

[6, Individual or joined competences in local collectivities (*kreis*), depending on the number of inhabitants in municipalities that integrate the community]

**We can extend the coherence between funding and power in the German example to the final rung of the three-dimensional model, that of the municipality.**

The German *Gemeinde*, municipalities, and *Kreise*, administrative groups of municipalities (comparable to a Catalan *comarca*), make more effective use of their budgets than the local bodies in Catalonia when implementing local policy.

We therefore find that German municipal town planning is less *burdened*, as it merely fulfils the role for which it was conceived: supplying housing, industry and services deriving from recognised needs.

Local German tax offices are a long way from having to resort mainly to taxes to carry out their activities - which would include, naturally, taxes on town planning; this is however, the source of relief Catalan local government relies upon.

Nevertheless, it would now seem that various circumstances are having an effect on the solid German municipal pyramid, in particular those relating to the ever-enticing private interests.

**The base of the pyramid - the municipality - is under threat. Seeking help in levies and taxes - mainly from town planning - is perhaps no longer such a long way off in a country that has made an enormous effort to become unified and that is today economically spent.**

Budgetary cutbacks are taking place at all levels and in all public spheres, and are not exclusively restricted, then, to local government.

The situation described on the previous pages, which focuses on the actions of the *Land* and *Bund* governments, that is, **the step they have taken from being actors to spectators on the urban stage of large-scale projects, can equally be extended to local government.**

**Thus, the regulation of how public land is surrendered would become a requirement at all levels of administration, or, which amounts to the same, at all stages of planning,** as each government has town planning powers allocated to it that cover their territorial scope, it being the issuer - and until now executor - of the corresponding plans.

The reasons behind introducing regulation - also on a local scale - would be common to all levels - State, federal and municipal: the growing pressure of the private sector on an economically weakened government which will force the latter to negotiate public compensations for town planning activity, thereby burdening the entire community.

**The situation described could become even worse in municipalities as they obtain their budget from two higher levels of government already burdened themselves - *Land* and *Bund* - which together fund 50% of all municipal budget allocation.**

[7, fiscal capacity of local administrations is taken into account for the reckoning of fiscal capacity in länd administration to determinate the leveling mechanisms to be applied]

In Catalonia, funding received from the central government represents 17% of the total municipal budget, plus 5% from the Autonomous Government of Catalonia, which "fattens" the municipal coffers by 23%.

[8, "poor" land dependency]

In a situation of municipal budgetary cutbacks, as is beginning to take shape in Germany, it may be very tempting to tax private activity. Taxation on town planning, in particular taxes on all construction activity, can be extremely decisive and even more so when this activity constitutes an element of inverse pressure, that is from the private to the public. A good example of this is found in our town councils (more than budgetary cutbacks we must talk of a lack of budgetary resources) where town planning activity has added greatly to municipal finances.

**In Germany, municipal town planning - the final rung - where we find all powers relating to local planning, management and auditing, there may be important, or at least physically very obvious, changes afoot if diligent and swift action is not taken soon.**

The following text goes into greater depth with regard to the legal town planning framework found above all in *Baugesetzbuch* (BauGB) law - the Town and Country Planning Code - which, as we have already said, will not include in any of its articles obligatory land surrender as we understand it. We will also attempt to find the opportunity in and convenience of a change of approach in this respect, understood as the introduction of town planning regulation with regard to the area of land surrendered.

## general overview of comparative studies into town-planning legislation in Catalonia and the *Land* Berlin-Brandenburg

The Federal Republic of Germany has been a federation of states since 1870.

The Constitution, known as the *Grundgesetz* {GG} or "Basic Law" dates back to 1949. It establishes that state power is divided between two authorities: the *Bund*, the federal government of the 16 *Länder*, or states; and 3 city-states according to a principle of an *ascending hierarchy of power*. {art. 30 GG}

Each *Land* is divided into *Kreise*, districts or counties that correspond to an association of municipalities which are also a means of territorial division for the fulfilment of administrative duties pertaining to the *Land* {art. 28.1 GG} and into 15,961 *Gemeinde*, municipalities. These municipalities have enjoyed local power and autonomy since 1993 {art. 28.2 GG}

*Länder* have all the powers of the state, with the exception of those expressly attributed to the higher authority, the *Bund*. {art. 30 GG.}

[9, when the *Bund* makes no legal pronouncement in an specific matter, is giving the ruling competency to the lands]

The federal states will therefore have all of the powers until the *Bund* passes legislation in that subject area, superseding the legislation of the former and taking over their legislative powers in this respect. {art. 72 GG.}

[10, länder competences is a reciprocal business: if they renounce to some competences in favor to the Federation, other ones will come back to the Länder]

Today the federation reserves the exclusive right to legislate on: {art. 73 GG.}

- 1) Foreign affairs, as well as defence, including the protection of the civilian population;
- 2) nationality in the federal plan;
- 3) freedom of movement, the passport system, immigration and extradition;
- 4) currency and currency exchange, weights and measurements and measuring time;
- 5) the unity of commercial and customs and excise territory, mercantile and naval contracts, freedom of movement of goods and commercial and financial exchanges with other countries, including customs and border police;
- 6) air transit (modified on 20/12/1993);6.a) Transit by railway, all or most of which belongs to the federation (federal rail), construction, maintenance and operation of federal railways and fees for using said railways; (added 20/12/1993).
- 7) post and telegraph;
- 8) the legal situation of people in the service of the Federation and other directly-related public bodies;
- 9) patent rights, copyright and the right to publish;
- 10) cooperation between the Federation and the States concerning: a) criminal police; b) the safeguarding of fundamental order and freedoms, of the existence and security of the Federation or a State (defence of the Constitution) and c) safeguarding against any company which from federal territory endangers, by means of force or actions preparing for the same, the foreign interests of the Federal Republic of Germany; also, the establishing of a Federal Criminal Police Office and the international fight against delinquency;
- 11) statistics for the purposes of federal order.

With regard to the law enforcement, the *Länder* generally apply the laws of the *Bund* as their own {arts. 83, 84 GG}, although they may also enforce said laws by delegation {art. 85 GG}. In some matters, the *Bund* enforces laws by means of "federal self-administration" *durch bundeseigene Verwaltung*, {art. 86 GG}; and as one would expect, the *Länder* ensure their own laws are complied with {art. 30 GG}.

In Germany, town planning powers are shared between the *Bund* and the *Länder*.

[11, Although the separation of competences, Germany is the federal state with more liability confusion. Avoiding this, all bureaucracy will be simplified]

Although the GG makes no specific reference to town planning law, in **article 74 GG** on concurrent legislation (of the *Bund*), in Section 14 we find some powers relating to expropriations, the transfer of land and natural resources (Section 15), and generally relating to collective protection and use.

Therefore, part of town planning law corresponds to the *Bund - Stadtbaurecht* - which we could say refers to that pertaining to structure, that is land, water and air.

The *Bund* legislates on the environment and heritage, among other things.

The **basic town planning law (of the *Bund*) is known as the *Baugesetzbuch*, (BauGB), 1986**, (reviewed in 2004 and 2006), which regulates planning, use of property for building work, reallocation of land, expropriations, urbanization and drainage and development in cities, framed within the territorial plan *Bundes Raumordnungs*, 1965-86.

The *Baunutzungsverordnung* (*BauNVO*), the German Building Code, contains detailed regulations for the general uses of *Bauflächen*, or land, and the constructible area included in these, those uses which are generally admissible and those which are admissible by exception. These are directly applicable regulations.

*Länder* carry out further "town planning police" functions, the so-called "building regulations", *Bauordnungsrecht*.

The "town planning police" laws (of the *Länder*) contain technical regulations for building, the procedure for granting licences and disciplinary measures relating to town planning, all based on a model or sample - *Musterbauordnung* (*MBO*), 1959 and 1992 - to homogenise them. This has served as a framework for the *Länder* when passing their own laws: *Bauordnung*. The latest version of this model is from 1992, and each *Land* has drafted its own.

[12, Cultural *Länd* sovereignty is the essential nucleolus of German federalism]

[13, Fundamental rights in *Länds* Constitutions]

Having presented the defining characteristics of both countries, we will now compare the German Federation of States and the Autonomous Region of Catalonia within the framework of their respective basic laws with regard to town planning, *Baugesetzbuch* (BauGB), 2006 and the *Text Refòs de la Llei d'Urbanisme* (DL 1/2005), 2004. If links are established with sectoral legislation, this will be cited with regard to which aspects are referred to.

Two overview tables are drawn up, one for each country, to provide a graphic representation of their main characteristics. The following text provides a more detailed account of the analysis conducted, highlighting the more relevant elements of the comparison and preparing us for some conclusions with proposals which we will expound upon in the following section.

In Spain, the Autonomous Regions have exclusive powers - free from State intervention - in town planning matters.

They have the powers to draft their own town planning laws and approve and enforce them. They therefore draft all the planning for their own territory.

In Autonomous Regions State laws are only applied for expropriations and land valuations.

The Spanish Constitution [art. 149, CE] establishes which issues the State has powers over (due to the length of the article, of the 32 sections we only cite those relating to territory):

The State has exclusive powers over the following issues: (...)

4. Defence and Armed Forces.

5. Administration of Justice.

(...)

20. Merchant navy and ship registration; coastal lighting and maritime signals; ports of general interest; airports of general interest; control of air space, transit and air transport, weather service and aircraft registration.

21. Railways and terrestrial transport that passes through the territory of more than one Autonomous Region; general communications system; traffic and motor vehicle transit; post and telecommunications; aerial cables, submarines and radio communications.

(...)

The State, however, holds authority in these territories for the planning and implementation of industry master plans in those matters over which they have power: transport infrastructures, large-scale facilities,... in coordination and agreement with the regions and municipalities, although state planning will always prevail due to its being on a higher level of power.

Equally, regional territorial planning directives or plans - by regional governments - take precedence over municipal schemes.

The municipality designs its scheme, which must be approved by the Autonomous Region; all other aspects, development, management, implementation and disciplinary control, come under local jurisdiction.

Basing our description on the categories in the table attached at the end of this text, there are three basic characteristics of German town planning:

### (1):obtaining town planning systems

In Germany **town planning systems are obtained by means of expropriation**, which presupposes a prior agreement with the owner. (arts. 85 to 93 BauGB). There is no obligation of surrender, as understood under the terms of Spanish law.

**Owners are liable to pay** (as a housing development cost) **a maximum of 90% of the fee for expropriation (art. 129.1 BauGB), by means of special contributions (art. 127 BauGB).**

Expenses relating to public facilities and green spaces that can be attributable as a development cost are the costs of obtaining the land and obtaining the building (if there is one), as well as the building of new installations (when construction is the aim) or the value of property that the municipality may contribute from its assets for the future location of facilities (art. 128.1.1 BauGB).

Special contributions should also be used to fund general services: roads and urban development and primary urban development expenses (provision of lighting, water, ...) (art. 128.1.1 and 149 BauGB)

Although the *Baugesetzbuch* (BauGB), the Town and Country Planning Code, does not contain a definition of the *concept of town planning*, (art. 127 BauGB), it does list all of these services, as well as those relating to facilities and green spaces, as costs attributable to special contributions.

Total urban development costs are shared proportionally among the participating regions. (art. 131 BauGB).

German town planning legislation allows the government other means of obtaining land for public ends: **pre-emption and buyout, which is embodied in the so-called "right to purchase", *Vorkaufsrecht*, (arts. 24 and following BauGB)**. This establishes that the government must sell the land in order to constitute upon it "building right" *Erbbaurecht*. (art. 89 BauGB).

Among these objectives the promotion of protected housing was predominant until recently.

The starting point for German town planning law - *the right to build* - is not granted by the plan, but pre-exists and is restricted according to general interests, as *the fruit of a weighting scheme*, which means that the principle of equality does not play such an important role as in town planning in Catalonia.

<p>(1):obtaining town planning systems In areas subject to reallocation, <b>assignment is obligatory and free of charge</b>. If the obtaining of land must precede the urban development operation, the government must expropriate, assuming the rights and obligations of the owner <i>(art. 34.7)</i></p> <p><b>Total roof area increases by small proportional amounts</b>, and by a minimum of the reserves for free spaces and facilities determined by art. 65.3 and 4 <i>(art. 94.2)</i></p> <p>If there is an <b>increased density</b> of residential use, with no increase in constructability, there are provisions for a reserve of a minimum of 10m2 of <b>free space and facilities</b> for each new residence, unless the increased density is allocated to protected housing and does not exceed the number of residences resulting from applying the 70m2 model to the total roof area for this purpose. <i>(art. 94.3)</i></p> <p>On urban building land and under a <b>transformation of use</b>, a minimum of 15m2 is reserved for every 100m2 of residential total roof area for <b>green spaces</b>, and 7.5m2 for <b>free spaces and facilities</b>. <i>(art. 94.4)</i></p>	<p>(8):Form of building lots and sectors <b>Land reserved for general systems</b>, including that reserved for <b>management purposes on building lots for urban development, urban land or constructible land</b>, is an integral part of the sector. <i>(art. 35.1)</i> <b>[Land for private profit]</b> is established according to constructability, intensity of use and economic viability, but <b>no less than 45%</b> of the land for private profit in development sectors, including the assignment of profitability to the ruling government <i>(art. 35.5)</i> The <b>gross density</b>, applied to the sector as a whole <i>(art. 35.6)</i>, may never exceed <b>100 res./Ha</b>. <i>(art. 58.8)</i></p> <p>There is the possibility of discontinuity of land for private profit in development sectors, including the assignment of profitability to the ruling government. <i>(art. 35.3)</i></p>	<p>(9):town planning system :general This determines <b>the general structure of the territory and its urban development</b>. <i>(art. 34.1)</i></p> <p>(10):town planning system: local This applies to <b>all urban land, to a scope of action of the same and/or of constructible land</b>, in accordance with the POUM or PAUM <i>(art. 34.2)</i></p>	<p>(19):municipally-owned properties Obligatory for town councils that receive <b>assignments of public ownership for profit</b>. <i>(art. 156.1)</i> With <b>expansionist aims</b>, in accordance with the POUM and/or PAUM and with the economic possibilities of town councils. <i>(art. 156.3)</i> <b>For the right to decent housing</b> Intervention on the real estate market to <b>reduce the price of land and facilitate the acquisition of urban development systems</b> In addition to publicly protected housing for reinvestment, there must be a <b>minimum reserve of 25% of all new housing</b>. <i>(Arts. 153, 154, 155)</i> In the case of <b>expropriated plots on constructible land</b>, there must be a guarantee that <b>the plots are allocated to protected housing, public ownership being retained for a minimum of 30 years</b>. <i>(art. 155.1)</i></p>
<p>(2):town planning system definition The urban development plan will determine the <b>reserves for the community facilities and public free spaces system</b> on unconsolidated urban building lots and in development sectors <i>(art. 34.5 and .7)</i>, although there are some minimum requirements.</p> <p>(3):definition communications system <b>Infrastructures for the transportation</b> of people and goods via <b>terrestrial, maritime or air transport</b> with their respective protected and parking areas <i>(art. 34.4)</i></p>	<p>(11):communications system :general</p> <p>(12):communications system :local</p>	<p>(13):free public space system: general Provision is made for a reserve of <b>5m2 for every 25m2 of residential total roof area</b> <i>(art. 58.1f)</i>, including the <b>computing of local assignments</b> to establish values. <i>(art. 35.1)</i></p> <p>(14):free public space system: local In <b>residential constructible sectors</b> there will be a reserve of 20m2 of land and 100m2 of total roof area with a minimum of 10% of the surface area <i>(art. 65.3)</i> In <b>non-residential constructible sectors</b> a minimum of 10% of the surface area is reserved <i>(art.6. 65.4)</i>, <b>computing the standard independently</b> if the residential standards are not applied. <i>(art. 65.5)</i>. For <b>urban land</b> there is a minimum reserve for new total roof area and for increases therein of <b>20m2 for every 100m2</b> of residential total roof area and <b>5m2 for total roof area for other uses</b> <i>(art. 94.2)</i>, <b>computing the different uses independently</b> if destinations differ <i>(art. 65.5)</i></p>	<p>(20):protected housing Reserve of the land corresponding to <b>20% of the total roof area allocated to housing on urban building land</b> <i>(art.57.3)</i></p> <p>Owners of constructible land are obliged <b>construct the required protected housing under the established terms</b>. <i>(art. 44.f)</i></p>
<p>(4):definition free public space system <b>Parks, gardens, green spaces, recreation, leisure and sports areas</b>. <i>(art. 34.6)</i></p> <p>(5):definition community facilities system <b>Public centres, religious, cultural, educational, sports health, care, technical service and transport facilities</b>, and all those of public or social interest. <i>(art. 34.5)</i></p>	<p>(15):community facilities system : general</p> <p>(16):community facilities system : local In <b>residential constructible sectors</b> there will be a reserve of 20m2 of land and 100m2 of total roof area with a minimum of 5% of the surface area, in addition to the land allocated to technical services, if applicable. In <b>non-residential constructible sectors</b> a minimum of 5% of the surface area is reserved, in addition to the land allocated to technical services. <i>(art. 65.4)</i> For <b>urban land</b>, land will be reserved if necessary for public facilities <b>according to the amounts required</b> <i>(art. 94.2)</i> Possibility of <b>adopting the free public housing system</b> <i>(art. 65.3)</i></p>	<p>(17):free public housing system : general</p> <p>(18):free public housing system : local Possibility of <b>full or partial substitution of the reserve for local facilities</b> in the constructible land sector where housing is to be located, provided that <b>5% of the total reserve for the municipality's local public facilities is not exceeded</b>, and the need for the same is not detected. <i>(art. 58.1g)</i></p>	<p>(21):publicly-funded housing Reserve of an <b>additional 10%</b> according to method of calculating protected housing, obligatory in <b>municipalities of over 10,000 inhabitants and county capitals</b>, voluntary in all other municipalities. <i>(eighth additional provision)</i></p>
<p>(6):definition free public housing system <b>Public housing actions for temporary group requirements for people with the need for care or independence</b> justified in social policies and previously defined in the social report <i>(art. 34.3)</i></p>	<p>(7):obligations of private parties <b>To assign</b> to the town council, obligatorily and free of charge, the <b>land reserved for general and local systems</b> <i>(art. 44.1b and c)</i> <b>To pay for</b>, and if applicable <b>carry out the urban development and install supply networks</b> (water, electricity, gas, telecommunications) on the part that the supply company is not legally responsible for. <i>(44.1a)</i> Owners of constructible sectors must <b>pay for</b>, if applicable, and <b>install</b> infrastructures for the connection, expansion and reinforcement with the general urban development systems beyond the scope of urban development activity according to industry legislation <i>(art. 44.3)</i></p> <p>When the urban development operation being carried out requires the <b>extension or redefinition of public transport infrastructures on unconsolidated urban building lots or on sectors of constructible land</b>, the owners must <b>pay their share of the implementation costs</b> in accordance with industry legislation. <i>(Art. 44.3 and 45.1b)</i></p>	<p>(22):plot development profit Owners of sectors and building lots must <b>assign</b> to the ruling government the necessary land for constructing the total roof area corresponding to <b>10% of the plot development profit of the development sector</b> or unconsolidated urban building lots <i>(art. 45.1., 40.1 and 40.2, 43.1)</i>, this being allocated to the <b>expansion of public property assets and allowing the assignment of the land within the sector, outside it or substituting it for its economic value</b> (the latter two cases would be allowable in the case of a single and indivisible plot and to improve housing policy) <i>(art. 45.3 and 43.3)</i></p>	

<p>(1):obtenció dels sistemes urbanístics          (2):definició sistema urbanístic          No existeix l'obligació de cessió, s'obtenen per <b>expropiació</b>(arts. 85 a 93 BauGB). Dintre els diversos supòsits on s'autoritza al municipi a una <b>expropiació Enteignungszweck</b>, hi consta el d'obtenció de sol per a dotacions (art. 85.1.1 BauGB)          El preu de les expropiacions es repercuteix un 90 com a màxim sobre els propietaris, a través de <b>contribucions especials</b>, com a costos d'urbanització. (art. 129.1 BauGB)          El <b>tanteig i retracte</b> és un altre recurs del que disposa la municipalitat per a adquirir terrenys destinats usos públics, amb l'anomenat <b>dret de compra Vorkaufsrecht</b> (art. 24.1.1 BauGB).</p>	<p>(8):Forma de polígons i sectors  <b>El dret a edificar Baufreiheit</b> (art. 14 GG), <b>no es creat pel pla, sinó limitat per aquest</b>. El propietari el posseeix, pel sol fet de ser titular del sol, <b>dret de propietat, Eigentumsgarantie</b>. Degut a la condició limitat del planejament, aquest ha de garantir una justa relació entre les necessitats públiques i privades: <b>Abwägungsgebot 'mandat de ponderació', de tots els interessos públics i privats'</b>, fonament de tot l'urbanisme alemany. (art. 1.6 BauGB), i sota processos de participació ciutadana (arts. 3 i 4 BauGB)          Es distingeix entre el <b>Beplanter Bereich, 'sòl amb pla'</b> (art. 30 BauGB), <b>Innenbereich, 'sòl urbà sense pla'</b> (art. 34 BauGB), i el <b>Außenbereich, 'sòl rústec'</b>. (art.35 BauGB). La distinció es basa fonamentalment en els diferents criteris als que es sotmet l'autorització de l'edificació en cadascuna de les classes de sol, sense una distinció d'obligacions i càrregues. Es comú, en les tres classes de sol, assegurar els serveis, per a autoritzar l'edificació. En el sol planificat, es necessari que el <b>projecte d'edificació</b> s'adapti al pla i demés normes aplicables</p>		
<p>Per a modificacions o derogacions de planejament es farà servir el mateix procediment que per a l'aprovació (art. 2 BauGB), grantint la participació ciutadana (art. 3 BauGB) i de les administracions (art.4 BauGB).          Tindran dret a indemnització les <b>modificacions de planejament</b> que redueixin l'aprofitament urbanístic.</p>	<p>(9):sistema urbanístic, :general          El <b>pla d'usos del sol Flächennutzungsplan</b> servirà per a la planificació <b>elements fonamentals de disseny urbanístic</b>, diferenciarà <b>espai públic-privat</b>; les àrees a protegir, a conservar i a desenvolupar; la ubicació de les infraestructures de transport, d'explotació de matèries primes; i les zones verdes i equipaments. (art. 5, BauGB).</p>	<p>(10):sistema urbanístic, :local          El <b>Bebauungsplan (B-Plan)</b>, <b>pla d'edificació</b>, desenvolupa les determinacions del pla d'usos, de caràcter només indicatiu. És molt més detallat i vinculant, podent modificar alguns supòsits del <b>Flächennutzungsplan</b>. (art. 9, BauGB).</p>	<p>(19):patrimoni municipal de sol          El municipi és qui té la iniciativa urbanística, promovent sobretot, àrees significatives i d'importància per a la comunitat i reutilitzant superfícies inactives. Els terrenys s'adquiriran per <b>dret de compra</b>, o en els seu defecte per <b>expropiació</b>. (art. 165 BauGB)          L'operació urbanística es portarà a terme gràcies al cobrament de les contribucions especials, per al seu cobrament s'haurà de fer pública una proposta de finançament. (art. 171 BauGB).          El municipi no pot recllassificar ni requalificar patrimonis públics de sol amb la finalitat d'obtenció de plusvàlues urbanístiques, per una doble raó: l'actuar d'acord el pla <b>ponderant interessos públics i privats</b> (art. 1.5, .6 BauGB) i cal presentar comptes econòmics al ciutadà (art. 171 BauGB).</p>
<p>(3):definició sistema de comunicacions</p>	<p>(11):sistema de comunicacions, :general          F-plan haurà de representar les superfícies per al transport regional i local així com els ports i aeroports. (art. 5.2 BauGB).</p>	<p>(12):sistema de comunicacions, :local          El B-plan haurà d'indicar la superfície destinada a circulació: viari, peatonal, pàrquing, així com els nodes de comunicació entre infraestructures (art. 9.1, BauGB).</p>	
<p>(4):definició sistema espais lliures</p>	<p>(13):sistema espais lliures, :general          Les àrees lliures en general, i en particular de les zones verdes, esportives, horts lúdics, àrees de bany i acampada i cementiris, seran representats al F-plan (art. 5.2.5 BauGB).</p>	<p>(14):sistema espais lliures, :local          El B-plan indicarà: Espais verds públics i privats: parcs, petits jardins, àrees esportives, joc, piscines, càmings i cementiris (art. 9.1, BauGB). La memòria del pla, integrarà un informe ambiental, fonamentat amb la revolucióària 'Llei de Natura' <b>Bundesnaturschutzgesetz (BnatSchG)</b>: En els casos d'afectació a la natura i al paisatge, el causant haurà de reduir tant com pugui el perjudici. Per als <b>perjudicis inevitables s'haurà de compensar al medi amb mesures substitutòries, de protecció i de reequilibri mediambientals</b>. (art. 19, BnatSchG).</p>	<p>(20):habitatge protegit          El B-plan indicarà: sol destinat a habitatges de protecció i els que es destinarà a grups socials amb necessitats especials. (art.9.1.7 BauGB).</p>
<p>(5):definició sistema equipament comunitari</p>	<p>(15):sistema equipament comunitari, :general          El F-plan haurà de representar els equipaments públics i privats, diferenciant entre els sanitaris, culturals, religiosos i per al lleure. (art. 5.2.2, BauGB)          Només es representaran aquells equipaments de superfície superior a 3 Ha.</p>	<p>(16):sistema equipament comunitari, :local          El B-plan indicarà: sol destinat a equipaments (esport i temps lliure), les zones d'aparcament i garatges necessaris. (art. 9.1, BauGB).</p>	<p>(21):habitatge concertat</p>
<p>(6):definició sistema habitatge dotacional</p>	<p>(17):sistema habitatge dotacional, :general</p>	<p>(18):sistema habitatge dotacional, :local</p>	
<p>(7):obligacions dels privats          El municipi es farà càrrec de l'<b>urbanització Erschlissung</b>, podent establir un contracte amb un tercer delegant-ho a aquest. (art. 123.1BauGB). Els propietaris es faran càrrec de l'edificació. Les contribucions especials inclouran les <b>contribucions d'urbanització</b>, permetran adquirir els terrenys per a serveis tècnics, així com el tractament dels espais: carrers, camins i places –privades i públiques-, zones verdes i d'aparcament.(art. 127 BauGB). Les contribucions especials, costejaran el 90% dels costos d'urbanització, el 10% restant serà aportat per l'administració municipal. (art. 129.1, 134.1 i .2 BauGB)          Fent un paral·lelisme de llenguatge, podríem dir que els propietaris costejaran els '<b>sistemes locals</b>' (B-plan) amb contribucions especials, condició necessària per a l'obtenció de la llicència. Els '<b>sistemes generals</b>', sempre superiors a 3Ha., aniran a càrrec exclusivament de l'administració.          L'implantació del temps d'urbanització depèn del municipi, no vé regulada per llei. No es fa necessària una obligació de cara als particulars de construir en un plaç determinat des que la urbanització ha conclòs, ja que s'inicia el pagament de contribucions especials des del moment que comença la urbanització (art.169.6 BauGB).          Així mateix el municipi pot dictar ordres de modernització, conservació i construcció <b>Modernisierungsgebote, Instandsetzungsgebote i Baugebote</b> (arts.175 a 177 BauGB).          Indirectament es fomenta la construcció conforme al pla en un plaç de 7 anys, per la pèrdua de l'indemnització dels canvis de planejament (art. 42.2 BauGB), i per l'inici del pagament de contribucions especials des del moment que es comença l'urbanització (art. 133.2 BauGB)</p>	<p>(22):aprofitament urbanístic</p>		

A method of equal distribution such as our *aprofitament tipus* (typical profit obtained from building on a plot of land, or what we shall call "plot development profit") does not exist. **The equal treatment of owners is mostly achieved through the application of objective norms which regulate building activity** (heights, maximums, constructible space, admitted uses, etc...) *Baunutzungsverordnung* (BauNVO) or the German Building Code.

**Expropriations are paid at market rates.** (art. 93, and 43.2 BauGB). The municipality must pay the owner compensation for denying them the *right to build*; this may be in cash (art. 40.1 BauGB) or in the form of other properties (art. 90 BauGB).

With this it is understood that compensation will be paid provided that the right of ownership is diminished or the value of the land reduced (art. 43.5 BauGB).

This does not take into account increased value as a consequence of the town planning operation to be carried out and which legitimises the expropriation. Neither are reductions in value taken into account that have appeared as a consequence of the imminent expropriation (art. 95.2.1. and 2 BauGB).

In certain situations (concentration of small plots,... particularly land which due to its location, size and shape make building according to town planning regulations easier) a procedure is employed which is very similar to what we call *reparcel·lació* (reallocation), *Umlægung*. (arts. 46 and following BauGB) and *Grenzregelung* (arts. 80 and following BauGB).

Its significance is, however, more limited in a legal sense: it is not a procedure by means of which owners comply with their obligations of surrender, equal distribution and urban development, but rather simply a **preparatory process for a later expropriation or right to purchase**.

This is not, then, a redistribution of economic loads and benefits, but a better distribution of the properties reallocated to the resulting properties on the basis of planned proposals.

Section 2 of Article 55 specifies the land to be included in reallocation. From the overall "reallocatable whole" that land is discounted which is planned for use as roads, public areas, such as parks, squares and facilities... (art. 55 BauGB).

The government may participate in town planning in the same way as any other agent, with the option of adding land to the reallocatable whole (art. 55.1, .2 and .3 BauGB)

Town councils are responsible for the whole process, from defining its scope to the execution of the right to purchase (art. 46.2 and .5, art. 80.1 BauGB). See also art. 171 BauGB, on costs covered by the municipality.

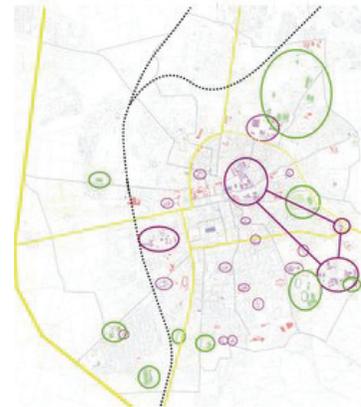
German law applies the same regulations for modifications to planning as those for approval, and also those for repeal (art. 2.4 BauGB).

For substantial modifications, a meeting is required with all of the interested parties and relevant authorities present (art. 3 BauGB), and the higher authority, the *Land*, must also be notified.

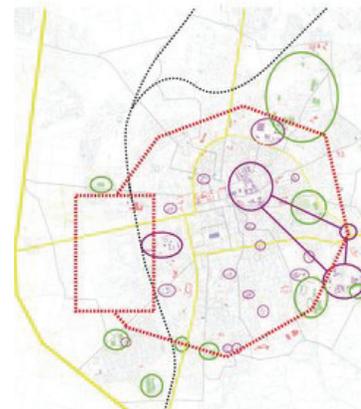
For modifications of lesser importance, however, there is a simplified procedure in which an audience is only granted to the owners and levels of government directly affected by said modifications, and notification of or authorisation by the superior authority may occasionally not be required. (art. 13.1 and .2 BauGB).

The phases for informing the public are normally one month in duration before proceeding with the examination of proposed suggestions. In order to increase citizen participation in this type of process, two predetermined periods are established during the year (spring and autumn) when all of the projects that have been initially approved to date are put on public display.

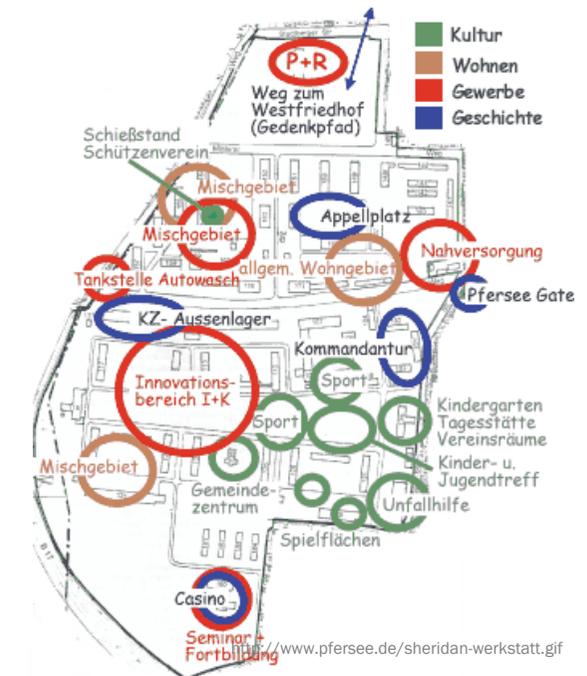
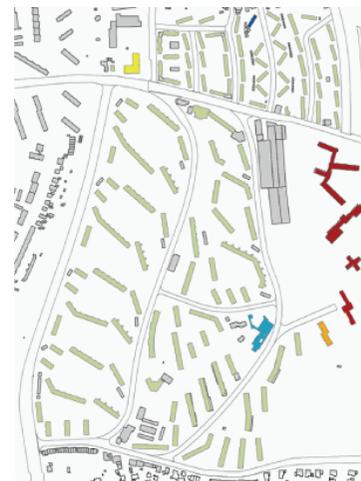
During this period or another specified period other public administrations affected by the submitted plan may state their opinion of the project (art. 4 BauGB).



<http://www.fgstadt.org/>



<http://www.uni-leipzig.de>



We have already commented that modifications to planning where there is restricted plot development profit have the right to compensation.

Should the modification take place within seven years of its allocation for use, compensation will be paid according to the difference in use and the value of use according to the current or anticipated plan. After the seven years have passed, compensation will only be paid for the difference between the value of the land and the true use made of it (which may be less than the previous plan would allow) and the value deriving from the new resolutions taken (**art. 42.1 and .2 BauGB**). Full or partial compensation may be paid together with other properties when the interested parties deem this to be fair. (**art. 101.1 BauGB**).

In reference to planning modifications to be introduced for facilities, it must be demonstrated that the change contributes an improvement for the common good (**art. 32 BauGB**).

In Spain, the same procedure is employed for approval and modification. A simpler procedure for minor modifications does not exist, however. Therefore, the comprehensive review of planning as a consequence of structural changes and one-off modifications that would affect partial aspects require the same procedure and process of public participation. This is true mainly due to the highly deterministic component of municipal plans. It is therefore not surprising that a comprehensive review of the plan is opted for in the face of very expensive and time-consuming accumulative isolated reviews.

In Spain, land valuation is also that of the **market price, but based on future plot development profit guaranteed by law**, as it includes anticipated values attributed by the plan (according to town planning qualifications) as property rights already held by the landowner. These expected profits, deriving directly from planning, are known here as *aprofitament mitjà* (mean plot development profit), resulting from the weighting of constructibility or authorised intensity in relation to admissible uses.

**The owner must surrender 10% of the mean profit attributed by the plan to the government by way of compensation for the urban development activity** granted by the latter within its administrative limits.

Any land that becomes property of the town council from this process forms part of the *patrimoni municipal de sòl* (municipally-owned property). In most Autonomous Regions this becomes land that must be used for social interests, and more specifically protected public housing.

In addition to land surrendered into municipally-owned property **we must add the surrender of land required for facilities and infrastructures to serve the sector (local systems) or the municipality (general systems)**, regulated by regional law.

In exchange for this surrendered land, the town council will allow the private agent to use 90% of the mean plot development profit guaranteed by the plan.

The obtaining of public assets by means of expropriation is not very widespread. Firstly, because it costs the government money, and secondly, because it is seen - by the affected party - as a dubious means of economic compensation.

Compensation varies greatly according to the type of land involved. Building land is not eligible for compensation as there is no loss of any prior right. With urban building land, on the other hand, if the plan or an action restricts or limits the powers acquired, these shall be eligible for compensation by means of expropriation.

Furthermore, when a plan proposes values which are not equally distributed, compensation may also be demanded by those owners who find themselves disadvantaged.

If we observe the table attached at the end of this text, the categories included do not exist as such in German town planning, although they do in Spanish law:

(2):town planning system definition

(3):communications system definition

(4):free public space system definition

(5):community facilities system definition

(6):public housing system definition

#### (7):obligations of private parties

In Germany and Spain obligations regarding the execution of building activity refer to the landowner or deed holder. Equally, owners are obliged to build according to the provisions of the plan. The difference resides in the fact that in Germany the government is the possible landowner or deed holder, although less so in recent years.

**In both cases, the government will carry out the building work at the landowner's expense, for up to 90% of the total cost.** These are payments made by private parties, although for different reasons. In Germany, this is due to the fact that there is a limit legally established by administrative law *Verwaltungsrecht* (contained in the BauGB), and in Spain because it is ruled - also legally - that land corresponding to 10% of use belonging to the government is not to be included in building activity costs.

It must be borne in mind that **German law** considers the **costs of obtaining land for public ends, as well as any public buildings required for its use, to be part of building activity costs which are therefore payable up to 90%.**

We could say that from the outset **in Germany urban development is more costly for the municipality than in Spain**, as the German government has to **bear at least 10% of the costs**, being able to turn to special contributions for the remaining 90%.

Only in cases of special urban development activity which correspond with areas where the urban development has been carried out might the action actually become profitable as a whole, as the municipality will sell the properties obtained at the market price (**art. 169.8 BauGB**).

**In Spain, urban development does not cost the government money**, as it is a cost added to properties and therefore financed by the private agent who recovers it through the ongoing sale of properties.

Local Spanish bodies also obtain land corresponding to 10% of the total use of each plan; although it is true that this land is integrated into municipally-owned property, nowadays it cannot be sold as it must be allocated to social ends.

In large-scale land development in Germany it is common to find that building activity and development are carried out by *property developers* who beforehand become owners of the land, or if this is not possible, reach private agreements with the landowners.

This procedure is formalised by means of a bidding system to select the *developer* and/or *builder* on the basis of the improvements they propose with regard to the minimum initial bidding bases, established by the competent level of government.

In Spain, the *property developer* is only present in very few cases, as normally this is the government itself. In cases where they are present, they are of secondary importance anyway, as they are only perceived as builders of public works that must later be surrendered to the government.

We therefore see that **it is really only in Germany that the municipality is responsible for urban development**. There is no obligation for the municipality to develop land within a specific time period, although it is from its diligence and speed in carrying out the works that suitable land becomes available for owners to build on.

Neither is there an obligation on private agents to build within a specific timeframe after the land has been developed. The latter's retention of land for speculation purposes is not possible thanks to the pressure exerted by special contributions.

It is possible, however, for specific owners to be obliged to build according to the plan within a specific timeframe (**art. 176 BauGB**), with the threat of expropriation if the timeframe is not met; for example, where there are housing needs (**art. 175.2 BauGB**), where non-compliance with this deadline may lead to expropriation (**art. 176.8 and 9 BauGB**). There is no special reduction in the amount of compensation in this case.

The municipality may issue owners with modification, preservation or construction orders *Modernisierungsgebote*, *Instandsetzungsgebote* and *Baugebote* (**art. 175 to 177 BauGB**), within the scope of a plan that covers this area; the owner must assume the costs implied by said measures (**art. 177 BauGB**).

The article (**art. 148 BauGB**) is very clear in this respect: the owner is responsible for constructing new buildings, modernising existing buildings and constructing public buildings in accordance with the plan (see also **art. 154 BauGB**).

In both the case of the obligation to construct and the obligation to modernise, a process of debate is opened with the interested parties where the opportunity is considered for the government to participate financially, particularly when this involves measures for promoting housing (**art. 175 BauGB**).

Finally, with regard to the obligations of private agents, we can say that private agents are exclusively responsible for street lighting, signposting and street numbering and lettering. (**art. 126 BauGB**).

### (8):Form of building lots and sectors

The right to build - *Baufreiheit* - and inherit - *Erbrecht* - are guaranteed by the Constitution, as they derive from the right of ownership - *Eigentumsgarantie* (Article 14 of the German Constitution, *Grundgesetz GG*). Thus, **the right to build is not created by the existence of a plan, but restricted by it**.

Art. 14.

(1) Das Eigentum und das Erbrecht werden gewährleistet. Inhalt und Schranken werden durch die Gesetze bestimmt.

(2) Eigentum verpflichtet. Sein Gebrauch soll zugleich dem Wohle der Allgemeinheit dienen.

(3) Eine Enteignung ist nur zum Wohle der Allgemeinheit zulässig. Sie darf nur durch Gesetz oder auf Grund eines Gesetzes erfolgen, das Art. und Ausmaß der Entschädigung regelt. Die Entschädigung ist unter gerechter Abwägung der Interessen der Allgemeinheit und der Beteiligten zu bestimmen. Wegen der Höhe der Entschädigung steht im Streitfalle der Rechtsweg vor den ordentlichen Gerichten offen.

Article 14

1. Property and the right to inherit (*Erbrecht*) are guaranteed. Contents and restrictions are determined by law.

2. Property brings obligations (*Eigentum verpflichtet*). Its use must also serve the common good.

3. Expropriation (*Enteignung*) shall only take place when in the common interest, and only by law or by virtue of a law which shall determine the form and scope of the same. Compensation shall be determined by means of a fair weighting of the interests of the collective interest and the affected party. In the event of conflict, the amount of compensation is to be determined by the ordinary courts of law.

Due to the fact that the Plan restricts a right protected by the Constitution, it requires some form of justification to legitimise it from a constitutional perspective. This justification is specified in the so-called *Abwägungsgebot* "**doctrine of fair commensuration**", **for all the public and private interests** involved (**art. 1.6 BauGB**), in which there is the participation, from a procedural perspective, of private agents and governments involved in the procedure for approving plans (**arts. 3 and 4 BauGB**).

The German Town and Country Planning Code - *Baugesetzbuch (BauGB)* - distinguishes between *bepannter Bereich* "land with a plan", (**art. 30 BauGB**), *Innenbereich* "urban land without a plan", (**art. 34 BauGB**) and *Aussenbereich* "external undeveloped land", (**art. 35 BauGB**).

The distinction is based on the different criteria to which authorisation for building is subjected for each land type. The strictest are, logically, those which refer to building on external undeveloped land.

**In Germany it is therefore not possible to talk of town planning legislation establishing a differentiating system of land ownership.** A distinction between the obligations and financial loads of the owner according to land type does not exist.

[14, the collective participation in the appreciation (added value) of the edification work as the anti-speculative measure that provides the Spanish model]

This differs greatly from the Spanish model, where with each plan there is a redefinition of the legal system with regard to the rights and obligations of urban property ownership. The fact that **land ownership means for the owner rights and obligations through the managing of plans and their allocation of the relevant property to land systems** is the most singular point of the Spanish model as a unique case in European town planning systems.

In Spain, by contrast with other countries, and legally expressed in the 1956 Land Act (although it had been initially outlined in the first Spanish Town Planning Act, *Ensanche de Poblaciones*, in 1864), it is the municipal plan that assigns the regulatory legal statute or regime to each property.

The most basic and important operation in each municipal plan is to demarcate plots of land according to land classification.

The three paradigmatic land "types" since the 1956 Land Act, and which are common for all Autonomous Region laws, are urban, constructible and non-constructible land.

A different statute corresponds to each legal land type for the execution of rights and benefits (availability, project possibilities and above all economic valuation) and also a differentiated fulfilment of obligations and economic loads (acceptable expenses, free and obligatory land surrender, distribution - or non-distribution - of profits, etc.)

**The new State Land Act (approved on 10th May 2007)** is designed to eliminate the speculation resulting from this classification by means of a *broad trimming of categories* in the land system, whereby **constructible land is eliminated and with it anticipated value, removing the incentive for the practices of reclassifying and retaining land for purely speculative reasons**.

This Act will not come into force until it is transposed into Autonomous Region law and therefore drafted by the Autonomous Regions. For now, then, the current classification of three types is maintained.

We can therefore say that **in Spain it is the plan that demarcates, creates, defines, assigns, and guarantees the economic and legal content of property, but does not limit or reduce it**, depending on the social function the plan aims to attribute to it.

Neither is there any inherent right in property, as external undeveloped land has no right to claim compensation for being denied the possibility to build, this being the original state of

the property: not constructible until expressly authorised by the plan. The situation is quite different when this land becomes constructible. **The plan is an extremely powerful instrument for redistributing the economic power of space.**

#### (9),(10):town planning system:(general, local)

**The land development plan *Flächennutzungsplan*** (equivalent to a "municipal plan") serves for the planning of fundamental elements in urban planning design (art. 5, BauGB). It determines which land is constructible, and its uses; **it differentiates between public and private space**; areas to be protected, preserved and developed; the location of transport infrastructures, raw material acquisition; and green spaces and facilities.

The *Flächennutzungsplan* (F-Plan) must include a document called *Begründung* (equivalent to an "explanatory report") which will contain the reasons behind the plan, justification for it and a very important part corresponding to the environmental report (art. 5.5 BauGB).

The *Bebauungsplan* (B-Plan), the building plan (equivalent to "derived plans" in Catalonia), develops the resolutions of the F-plan, which are only guidelines. The former is much more detailed and binding and may modify some of the proposals in the *Flächennutzungsplan*.

In a B-plan we may find elements that we would assimilate into a "partial plan" (see aforementioned "Development measures"), but also elements similar to the "improvement plan", pursuing urban remodelling or renovation.

In both types of B-plan, there may exist a preparatory process for the land similar to reallocation that merely aims for a better distribution of the properties reallocated to the resulting properties on the basis of the planned proposals (see Section 1 "Obtaining town planning systems").

However, in order to **neutralise the "improved conditions of the plots" owners enjoy from reallocation** (due to *packaging* and possible *positive relocation*), the law provides for a **surrender of a maximum of 30% of reallocated land in "development plans" and a maximum of 10% in "improvement plans"**. Owners will therefore have to deduct these percentages from reallocatable land. (art. 58 BauGB).

If there are no differences between the initial and final situation of reallocated land that may affect the value of plots there is no obligation of surrender.

These "surrenders" will end up in the hands of the government. All necessary public land other than that surrendered must be expropriated.

We can talk, then, of a **certain type of minimum surrender which we understand to be applicable to most urban development activities** as it is rare for there to be no increase in value - or improved conditions - after a reallocation process; **we cannot say, however, that this process is either generally implemented or obligatory.**

Although based on different principles, due to its value (between 10 and 30% of the value of the land), it would be near to that of the "mean profit" Spanish local bodies make. **In the case of Germany we can imagine that this land is used to compensate in some way for the costs of urban development, taxed at 10% by the German *Gemeinde*.**

#### (11),(12):communications system:(general, local)

Section 2.2 (art. 5, BauGB) establishes that the **F-plan must highlight the land to be used for regional and local transport as well as ports and airports.**

#### (13),(14):free spaces system:(general, local)

Section 2.5 of (art. 5, BauGB) refers to free spaces in general and in particular **highlighting on**

#### **F-plan maps green spaces, sports, leisure and spa areas, and campsites and cemeteries.**

The environmental report referred to earlier and incorporated into the explanatory report of the plan is based on the precepts of the "Federal Nature Protection Act" *Bundesnaturschutzgesetz* (BnatSchG).

Articles 18 and 19 of the aforementioned Act are worth highlighting due to their valuable contribution to raising environmental awareness.

Whilst changes in the form and use of land produced by agricultural and forest work are not considered to affect nature, all other activities that result in changes are, and we must therefore include town planning activity within this (art. 18, BnatSchG).

**In cases where nature and the countryside are affected, the causer must limit the damage as far as possible. In cases of unavoidable damage, compensation must be made in the form of substitute measures for environmental protection and rebalancing.** (art. 19, BnatSchG).

Damage will be considered to be rebalanced if natural functions have been re-established and the countryside has recovered or been reformed in accordance with the laws of nature.

Damage is considered to have been compensated when the functions of the ecosystem have been substituted in an equivalent manner or the natural scenery has been reproduced in accordance with its surroundings. This includes being able to compensate outside the sector.

**Actions cannot be carried out if it is not possible to compensate damages deriving from them** (art. 18.3 BnatSchG).

*Länder* may introduce complementary measures to this state Act, adding to the *BnatSchG*, provided that the modifications introduced are more restrictive and do not affect the capacity of the environment (art. 18.4 BnatSchG).

In Catalonia, decree 1/2005 - current town planning legislation - establishes minimum obligatory surrendering of 20m<sup>2</sup> of land for every 100m<sup>2</sup> of total roof area, with a minimum of 10% of the surface area for residential constructible sectors. For non-residential sectors a minimum of 10% of the surface area is reserved.

It is understood that these reserves are to serve the sector itself as they are local.

For general systems, a reserve of 5m<sup>2</sup> of land is applied for every 25m<sup>2</sup> of residential total roof area, if applicable. The general systems are calculated as opposed to local ones.

If we compare reserves between the different Autonomous Regions we see that there is a very broad range. There is no common denominator either in qualitative or quantitative terms, or in terms of local vs general systems.

#### (15),(16):community facilities system:(general, local)

Specifically, Section 2.2 (art. 5, BauGB) establishes that the **F-plan must highlight public and private facilities, differentiating between health, cultural, religious and leisure facilities.**

With regard to facilities, Catalan legislation also includes precautionary measures, by means of DL 1/2005. In this case, however, reserves are not established for facilities considered to belong to the general system. Local surrenders are also obliged to make one surrender, in residential sectors, of 10m<sup>2</sup> of land for every 100m<sup>2</sup> of total roof area, with a minimum of 5% of the surface area of the sector (minimum values are reduced in comparison with green surrenders). In non-constructible sectors the minimum surrender is required.

#### (17),(18):free public housing system:(general, local)

#### (19): municipally-owned property

Until well into the Nineties, Germany followed a similar model to that of the Dutch

paradigmatic model, whereby the government buys the land in order to direct and instigate urban development activity and control building through sales contracts.

Therefore, until the arrival of the current economic recession, **the government would purchase all land that formed a part of the area of development, urbanise it and sell it to whoever was prepared to build according to the plan**, within a suitable timeframe.

Recently, however, we have seen a turnaround: the municipality no longer buys up all of the land, but rather **leaves this initial task in the hands of the private agent**; as we have seen, a turn in the direction of the Spanish model.

This Spanish model is characterised by a strong presence of the private agent in all urban development processes, the government has traditionally been a spectator of the country's urban development, without taking an active part in guiding it.

It is worth highlighting "Municipally-owned Properties" (basically surviving on profits deriving from urban development activities) which until very recently were sold by the local Spanish government, constituting an important source of local income.

Municipally-owned Properties can be defined as those municipally-owned assets whose purpose is to regulate the property market, obtain land reserves for public initiatives and facilitate planning.

Today, it is destined exclusively for social housing. Legal restrictions have also increased, and now municipally-owned land may only be sold if the profits are reallocated to public housing.

On rare occasions we find voluntary contributions to municipal assets, that is, not deriving from plot development profit. The government may apply the resources of pre-emption and buyout (preferential purchase in favour of the government) and expropriation, provided that it is intended for municipally-owned land.

Today, in Europe the most widely-used model is still **public interventionism** (which is not the case with the Spanish and UK models), **whereby the government intervenes in the property market as a subject, buying and selling property and as a market regulator** with the powers of expropriation and the right of pre-emption and buyout.

Thus, in Germany, the interventionist instruments are basically *Vorkaufsrecht* - **the right of pre-emption and buyout** - (arts. 24 to 28 BauGB). The municipality can exercise this during the application of a plan, during land reallocation or property development.

In order for the government to be able to directly offer the market building land, the so-called *städtebauliche Entwicklungsmaßnahmen* are of great importance - "town planning development measures", (arts. 165 to 171 BauGB), whereby the municipality purchases land within the area for urban development (an initial attempt is made to reach an agreement with the owner by means of *angemessene Bedingungen* "reasonable conditions", and if not it **proceeds with expropriation**).

The local authority develops them, selling them at market rates. Municipalities have the possibility of contracting building work to a third party (art. 124 BauGB) and thereby completing building projects more swiftly. In this respect, previous owners will have preference over development companies.

Both town planning legislation (art. 89, BauGB) and that relating to protected housing - *Wohnungsbau- und Familienheimgesetz (II WoBauG)* - allow the government the possibility of constituting building rights on its property, it being a direct agent and promoter of urban development actions.

Despite this active **role of the German government in town planning activity, which is lesser today, it is not expected that the government obtains capital gains by this means**. And despite

the fact that it can sell land, it cannot undertake town planning activity with the intention of obtaining this type of benefit.

A reclassification or requalification of public property to the exclusive end of obtaining capital gains for town planning activity is not wholly compatible with the *doctrine of fair commensuration of public and private interests* (art. 1.6 BauGB), which must justify the resolutions of the plan.

In respect of this, the aforementioned Article 14.2 of the *Grundgesetz* (GG) establishes the social function of ownership (*Sozialbindung* or *Sozialvorbehalt*), empowering the Constitution to determine the content and limits of the rights of ownership, obliging that the common good be served and also compliance with the weighting of public and private interests, which has consequences for setting the amount of compensation in the event of expropriation.

This is very similar to that established in Article 33 of the Spanish Constitution:

#### Article 33

1. The right to private ownership and inheritance is recognised.

2. The social function of these rights shall limit their content in accordance with the law.

3. No one may be relieved of his or her assets and rights without due cause relating to the public good or social interest, by means of corresponding compensation and in accordance with that established by these laws.

On the other hand, *private speculation* is not explicitly impeded, although it is broadly controlled through the capture of capital gains or undeserved profits by means of methods of compensation and the payment of externalities.

There is a social conviction that says that to retain land is frowned upon and reproachable, representing a lack of business dynamics and industrial production.

Legislation is in place to combat speculation: the retention of land without building on it for over seven years may substantially alter the compensation that may be received in the event of planning alterations (art. 42.3 BauGB). Furthermore, the obligation to pay special contributions for urban development activity as soon as it is completed exerts pressure on the idea of retaining land (art. 133.2 BauGB).

**In Spain, capital gains can be obtained through urban development activity by means of "requalification" or "reclassification".**

As we have already mentioned, the new State Land Act is intended to eliminate this speculation by eradicating constructible land.

On the other hand, municipally-owned land is on the increase, in some cases by up to 15%, a fact that increases society's participation in capital gains from urban development activity, very much in accordance with Article 47 of the Spanish Constitution:

#### Article 47:

All Spaniards have the right to enjoy a decent and suitable home. Public authorities will promote the necessary conditions and establish pertinent regulations to put this right into effect, regulating the use of land in accordance with general interests to avoid speculation. The community will participate in the capital gains generated from urban development activity by public bodies.

We will therefore soon be able to speak of an increase in protected housing for plot development profit.

**(20),(21):protected / publicly-funded housing**

Article 9.1.7 of the BauGB regarding contents of the *Bebauungsplan* - **building plan** (which

would be equivalent to the partial plans in Catalonia) - states the need to determine which land is to be totally or partially allocated to housing. A **distinction is to be made between land allocated to protected housing and land allocated to social groups with special needs.**

Article 9.1.7 of the BauGB regarding contents of the *Bebauungsplan* - **building plan** (which would be equivalent to the partial plans in Catalonia) - states the need to determine which land is to be totally or partially allocated to housing. A **distinction is to be made between land allocated to protected housing and land allocated to social groups with special needs.**

As with facilities and green spaces, the German Town and Country Planning Code **does not provide minimum land or total roof area parameters for reserving protected housing, the government itself motivating and promoting this; there is no sense in its demanding minimum reserves and surrenders of itself.** We have also seen that this situation is undergoing change, something which also leads to the re-evaluation of legal resolutions.

Neither will we find prerequisite values or recommendations in the German Housing Act *Wohnungsbau- und Familienheimgesetz (II WoBauG)*.

Article 88 thereof (**art. 88.4 II, WoBauG**) reinforces the role of the government as a body for planning needs: the *Länder* are to determine the scale of housing developments, the sale or rental price, the terms of classification for protected housing and the suitability for future extended development.

In this Act it states that the government in power must have sufficient - and adequate - property to satisfy the needs of protected housing (**art. 89 II, WoBauG**). Furthermore, in the same article it mentions the need for the agent in charge of the protected housing operation to finance it; this agent may request credit to be returned upon the sale of the properties.

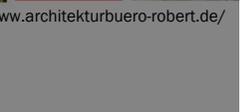
Fiscal benefits are provided for in the housing legislation for certain properties that have not received other means of public funding (**arts. 82 and following IIWoBauG**)  
The Act stipulates an economic limit for access to protected housing, which may only be exceeded by 60% (**art. 88.1 II, WoBauG**).

Similarly, the surface areas of properties are limited (**art. 82.1 II, WoBauG**) starting with a basic module of 90m<sup>2</sup> per property, up to 120m<sup>2</sup> being considered adequate for a unit for 4 people, with increments of 20m<sup>2</sup> per additional member. The maximum is set at 200m<sup>2</sup>, and only in the event that this property contains two families.

The Housing Act, drafted by the *Bund* and applicable to Germany as a whole, provides for resolutions on economic and surface area limits being slightly exceeded - for particular groups - in order to adapt to the needs of each individual *Land*.

In Catalonia, Act 2/2002 introduced the first reserve demands, determining **that it is obligatory for 20% of new residential total roof area to be allocated to protected housing.** The modification of this Act, 10/2004, adds that in municipalities of over 10,000 inhabitants and county capitals reserves must **increase by 10% for publicly funded housing;** to simplify the definition we can situate this somewhere between free and protected housing.  
It remains to be seen how the different Autonomous Regions interpret the resolution introduced by **the new State Act of allocating 30% of new residential land to protected housing.** In the case of Catalonia, we have already reached 30% in "large" municipalities, but with a combination of systems - both protected and publicly funded - calculated on the total roof area variable.

(22):plot development profit



## **osmosis between the principles of equal distribution of economic benefits and loads and weighting scheme for public and private interests**

We have seen how in Germany land for public facilities is obtained by means of coercive or obligatory free acquisition, that is, by expropriation. Land is always purchased at market prices, prior to the plan. However, the government will pass up to a maximum of 90% of the cost of purchasing public land, along with its development and services, on to the owners, capitalising the remaining 10% as loss-funds.

We must add to this the obtaining of between 10 and 30% of the land in the sector in preparatory processors for the plan, provided that the *grouping of plots* is beneficial for the owner. The latter will contribute land or pay economic compensation according to the best distribution that provides the greatest economic valuation of the plots. This is similar to the Spanish reallocation of plots but only with regard to the "preparation of land" for the plan.

As a side note, it is worth mentioning that in the Netherlands it goes further than this. The monopolistic position of the government allows it to resolve the obtaining of public land by means of agreed purchase, or under the pressure of expropriation, passing all of the costs, together with those for urban development work, onto owners, leaving all urban development operations free from costs.

We find Spain at the extreme opposite of both situations. It maintains the exclusive right as a European country - and probably in the world - of demanding obligatory free surrender of all public land required. Surrendered land allocated to infrastructures - social (facilities), environmental (green spaces) and technical - which is amplified through the receipt of 10% of the mean plot development profit of the sector for the government in power. Land that takes financial benefit of compensatory reallocation, which with the transposition of the new State law should be allocated solely and exclusively to protect housing.

In between the two extremes we have described we find all other countries. France, Italy and Switzerland contribute to "primary" (services) and "secondary" (facilities, parks, etc.) urban development costs in the terms required by law. Generally speaking, France uses a system of free surrender of 10% for roads; Italy and Switzerland will study the total to be contributed - proportionally and with appropriate weighting - for each individual case.

The UK and US come to "reasonable" agreements with the owners regarding amounts public land surrendered, and the allocation thereof.

If we were to make a hypothesis that summed up the situation described for Spain and Germany, could we say that **German expropriations might be equivalent to Spanish surrenders in terms of the amount of public land?**

In the following section we will provide an answer to this question. We will see, in three specific cases, whether the German expropriation of public land - of unfixed value - and "preparatory reallocation" are in some way similar to the surrenders established by law and the plot development profits in Spain.

In Germany, urban development initiative is the responsibility of the municipal government.

What is more, the municipality holds sole responsibility for urban development work. This is what is known as "asystemic action", whereby the municipality develops land and passes the costs onto the owners. Obtaining a housing development licence is conditioned according to payment of the same. Private building activity is to be carried out by private agents in accordance with the plan and in particular with the *Building Quality Regulations*.

The strong German public interventionism, as we have seen, is surpassed by the well-known and paradigmatic Dutch model. We can position France and Switzerland on a similar line to Germany, and at the opposite extreme the UK, US and Italy, where urban development initiative is private.

In Spain, once again unique, the private developer commences and ends urban development activity, but with strong public interventionism in the valuation of the land, the obtaining of land and the fact that development by the owners is obligatory.

Urban development initiative is private and subject to the requirements of the defining mandate of Spanish town planning law, the "principle of equal distribution of economic loads and benefits".

No other country is known to have compensation or cooperation-type private execution systems which are regulated or predetermined by the government.

The original Spanish town planning system (established with the first Land Act in 1956) may be qualified as "subsidised private implementation of public town planning" due to the aim of acting as the guardian of relationships, rights and obligations and commitments established between all owners, obligatorily grouped into a management community charged with and subsidised to carry out all public works - rather than the government - and who will receive the profits obtained from the added value of the land.

therefore, the owners, integrated within a privately-run management unit or demarcated sector, are obliged to implement the plan that affects them, develop the land, redistribute costs and profits among themselves (reallocation), and surrender free of charge the amount of pre-established public land and constructible land necessary to make up 10% of the mean plot development profit by way of compensation to the community for obtaining capital gains.

By way of a second hypothesis, to be discussed in the following sections, we ask whether in the current framework of economic crisis in Germany - and therefore crisis of public initiative - and the possible appearance of a private urban development initiative, it is necessary to introduce mechanisms to guarantee public land.

[15, preservation of the "public potential" in cities as a fundamental citizen's rights guarantee in the German Social State]

**Can we amplify the need for the "protection of public land" and with this the need for a minimum requirement of land surrender in all cases where we find a government that does not lead its economic processes, whether by tradition (Spain) or due to economic weakening (Germany)?**

In this situation, where government Acts are not based on a law in favour of the community, but rather where it is the government that provides for this through urban development activity, when it is not able to do so, which town planning instruments should it turn to?

For a *Gemeinde*, a local German government body, when pressured by the private sector, which will in all certainty take advantage of the current situation to negotiate fewer facilities, green spaces and roads (and therefore be able to build more houses), where can it turn to protect public potential?

In the event that new regulations are not incorporated into current legislation, there is a need to **look for flexible instruments that adapt to stationary and permanent situations. In respect of this, we propose greater determinism in urban development plans.**

A resolution similar to that which is adhered to in Spanish planning, with the difference that the latter "outlines" that determined by law, outlining the possible commercialisation of land for that plan, which makes it far from being that flexible instrument that adapts to the needs of the moment.

[4] ARROYO GIL, Antonio (2006) *El Federalismo alemán en la encrucijada: sobre el intento de modernización del orden federativo en la República Federal de Alemania*. Madrid: Centro de Estudios Políticos y Constitucionales: Fundación Manuel Giménez Abad de Estudios Parlamentarios y del Estado Autonómico. p.155

With similar arguments, in the section of Public Law of the Annual Congress of German lawyers it was mainly defended the opinion that it was needed to promote a territorial division of *Länder* with partial character, in a way that those in the future could achieve they tasks effectively. With that intention, it was proposed that, in what was possible, the existing *Länder* won't be divided to be integrated in the territory of new *Länder* and, in any case, will be separated the regions that had uniform strong character.

In the same way, the social and economic actors, Michael Rogowski, President of the Industrial German Federation, was also convinced that nowadays the German federalism "is rigid and asleep, excessively expensive and, mainly, not efficient", for this reason the sixteen existing *Länder* should be reduced to eight, three times more efficient, from the economic, geographic and demographic perspective.

Such both confronted visions are, in fact, the reflect of two different ways to understand the federalism. In the first case, the national, cultural and identity elements will be more important than the pragmatic ones, and this taking into account that the major part of the existing *Länder* have their origin after the II World War. In the second, and on the contrary, it will be highlighted in the organizative moment, giving, consequently, the maximum relieve to the economic-fiscal capacity of *Länder*, independently to the collective affinities developed since 1945 between the inhabitants of such *Länder*. It doesn't seem that today will be possible to coexist both ideas, but this mustn't be the nucleolus of the worries of the federal system reformulation, thus finally it's difficult to find an Estate territorially decentralized in where doesn't exist such disparities between the parts that is composed, locating specifically in that point one of the may keys of the federal principle: to create unity among the diversity using solidarity mechanisms.

[5] op.cit. 4, p.156

The voices that claim for a model of competitive federalism (*Wettbewerbsföderalismus*) that substitutes the current one, the agonizing model of cooperative federalism (*kooperativer Föderalismus*) are much more and have more sonority. Even, the Constitutional Federal Tribunal had the occasion to be pronounced in occasion of the "dangers" inherent in the cooperative model of federalism, in a sense that discovered their preferences for the reinforcement of the competitive elements(...)

The federalism -they ensure- can't be confused with the aim to leveling or equalizing, it must signify exactly the contrary: !equal opportunities instead of equal results! The federalism guarantees the *Länder* autonomy, the competitiveness and the cultural, social, economic and politic variety.

This discourse about competitive federalism has soaked to such point, in the German public opinion, that some economic (analysts) have put in doubt, and, inclusively have qualified as an error or "antiquity" one of the sacred cows of German federalism, the equality or equivalence of life conditions in all cities and for all citizens, independently to the place of residence. This exigency is enforced, introduced in a moment when German *Länder* because to II World War they must support very different loads, to the point that has lead to a leveling and bureaucracy that mainly seeks the equilibrium between *Länder* and asphyxiates, consequently, the variety or the consubstantial difference in all genuine federal system; from here the imperious need to finish with it.

[6] BOSCH, Núria; MARCOU, Gérard; POLA, Giancarlo (1994). *Investissements publics et régions: le rôle des différents niveaux de collectivités publiques dans six régions fortes d'Europe*. Paris : L'Harmattan, cop. P. 21

We found in the four analyzed countries two levels of local administration: local communities in the basement and, in an intermediate level, the department or the province in France, in Spain and Italy; regions (Kreis) in Germany. (...)

Germany, who has known before another comparable structure, *Länds* in the old RFA as a result of a territorial reform made between 1965 and 1975; reform that is nowadays present in new *Länder*.

Also, there are 8505 local collectivities on the old RFA, plus the 7564 in the old RDA. Suddenly, two points must be highlighted: 1) Germany knows a legal differentiation in local competences depending on their importance: from one side, the municipalities that have the capacity also have the competences in the local collectivity (is the case of 93 communities in the old *länder*) from another side, mainly in *länder* one part of local competences of the small communities is done by an obligated packaging; 2) the territorial reform didn't obey to the same conception in all *länder*. Some *länder* have opted for a radical reduction in number of local communities (underline the North Renania-Whestphalia- 396 localities, with an average population of 43.000 inhabitants); other *länder* keep a big number of small communities (underline Rhenania-Palatinat, where merely the half of local communities have also less than 500 inhabitants)

Baviera and Baden-Wurtemberg are in the middle: Baviera has 2051 local communities, with an average population of 550 inhabitants aprox., and Baden-Wurtemberg has 1111 localities, with a population of 8500 inhabitants aprox.

[7] CASTELLS, A. (2004). *Les Subvencions d'anivellament en el finançament de les comunitats autònomes : anàlisi de la situació actual i propostes de reforma*. Barcelona: Generalitat de Catalunya. Departament de Relacions Institucionals i Participació. Institut d'Estudis Autonòmics. p. 40

After reunification leveling system efforts were accentuated, also the negative transfers brought by rich *länder*s. Those *lands* (Hessen, Baviera and Baden-Württemberg) presented recourse to the Constitutional Tribunal that in 1999 dictated sentency subscribing partially their claim. The sentency said, mainly, that the leveling system must reduce differences of fiscal capacity, but not to invert initial situation, making that after application of the grant system rich *lands* had less resources than the poor ones. Starting in that point, the main modifications introduced can be summed in the following points:

To determinate the fiscal capacity it should be considered all fiscal tools, not only fiscal incomes.

Legislator must fix measures and general rules that allow the determination of fiscal capacity not only in *länd* but also in local entities.

The treatment of population variable must be reviewed, also the need to introduce, if necessary, any indicator of population density.

[8] op. cit. 4. p. 154

Starting from other approaches, it's sustained, nevertheless, that if a real and efficient reform of German federalism is aimed, is essential to attack the task of reorganization of federal territories, with the objective already defined (...) if it's not willed that the desired substantial reform of German Federalism is lead to the failure to not be able to deal itself, in reason of the enormous difference in population and the financial capacity between the actual *Länder* much more "weak" than from this points of view are submitted to the ones more populated and better financed.

[9] op.cit. 4. p.29

The competency for the legal regulation of other important material matters, the most wide, in fact, forecasted basically in the articles 74 and 74a. GG, is reserved to the *lands* "while and at the measure" that the Federation didn't make use of his legal faculty (art. 72.1 GG); nevertheless, this competency of the Federation was subjected to the achievement of one condition, in particular, that his intervention was necessary in order to preserve the uniformity of life conditions further than an unique *länd* territory (art. 72.2 GG), in a way that when such condition is not satisfied, only individual *länder* will be able to legislate in the matter of the improperly denominated concurrent legislation.

[10] op.cit. 4. p.123

As the Minister- President of Saarland, Meter Müller (CDU) declared, is a reciprocal business: *länder* renounce to some of their rights to take part in vote processes of the Federal Council and, in counterpart, the competences that -till now- corresponded to the Federation are returned to the *Länder*s. And is like the Minister-President of Baden-Württemberg, Edwin Teufel (CDU) recognised, the *länder* aren't responsible neither are in favor of a participative federalism (*Beteiligungsföderalismus*), they aspire a federalism with an organizative character ("*Gestaltungsföderalismus*"), that is, to have wide material matters over those they are able to decide freely, being this, in fact, a common shared position by the most part of Ministers-Presidents of *Länder*s.

[11] op.cit. 4. p.78

(...) a) Establishing a new order in the distribution of competences between the Federation and the *Länder*s oriented by a subsidiary principle, with a clear separation between the aspects corresponding to the Bund and the ones to the *Länder*s, that permits to reduce -in what is possible- the future competitive conflicts, thus till that moment, as the Federal Minister of Justice, Brigitte Zypries, Germany is, after India, the federal state in the world in where exists a bigger mixture or confusion in legislative faculties.

With this clarification of the competitive areas will be avoided, furthermore, the most part of the long and difficult mediation procedures between the Federal Diet and the Federal Council that complicate enormously the taken of decisions, with the pernicious consequences that it has, mainly, in at European level, thus here the competition is with other states that react faster to the new social and economic exigencies.

[12] op.cit. 4. p.99

(...)c) In accordance with the new competence order that, at internal level either European, is proposed to achieve; is necessary to proceed to a devolution of wide material matters to the *Länder*s, over those ones they can enjoy again with more possibilities to achieve an autonomous legislative configuration. At this respect, occupy a preeminent place two material areas that constitute the essential part of the autonomous policy of *Länder*s: the public functionary's regime and specially the education and culture, what means to achieve a deep reformulation of articles 74a, 75.1, 1<sup>st</sup>. and 6<sup>th</sup>. GG in a way that, as a result of the this, *Länder*s lead wide legislative faculties for the regulation of such matters.

The "cultural *länd* sovereignty" that comprehends from scholar to high education, constitutes, really, the essential nucleolus of the German federalism, is why pronunciations in agreement to the constitutional recognition of wide legislative faculties of *lands* are numerous, what has to be in accordance to the fact that the Federation must be fulfilled of unlimited competences for the fixation of the frame or the legislative basis in this area, neither with the objective that the educative policy has to conferee a bigger autonomy and self liability to the institutions in charge of the education (...)

[13] BLÜMEL, Willi (1994) *Problemes constitucionals a l'Alemanya unificada*. Barcelona: Generalitat de Catalunya. Escola d'Administració Pública de Catalunya. Col·lecció: Materials: 15. p. 54

Differently from the republican structural principles, from the democratic and of the right ones, the "social principle", also included in the article 28.1 of GG, constitute itself a goal of the State. While the structural principles operate in an static form and, in some way, are the milestone of state order, the Estate targets are featured by their dynamism and serve to indicate the path of future state actions. Also the *Länder* are obligated by the Social Estate forms, which doesn't include direct guidelines of action because his windedness and indetermination (and for this reason must be performed and transformed by the legislator). In that sense, *Länder* legislators have not so much margin of action, according to the exclusively of Federal attributions in social matters legislation, without exceptions and absolutely squeezed.

(...)

Because the fundamental rights of the Federal Constitution are applicable to the whole Federation, the law catalogs of *Länder* Constitutions, in general, have signification only when the Federal standard is surpassed and could be obligatory with additional enforcing instruments.

[14] GARCÍA BELLIDO, Javier (1998) *Excepcionalidad del urbanismo español: su anatomía comparada con el contexto europeo*, a 'O.P. Obra Pública': 43, pp. 92-103

(...) to impede the speculation, to avoid the private appropriation of values and benefits created by the collective (the planning), the Spanish Constitutions takes into account the 'penalization' to intervene, mediate, "participate" or control such free private market of changes with an imperative mandate that must be like that: "The community will participate in the appreciations that the urban action of public agents generate" (art. 47 'in fine'), not allowing added values, even if anything in counterpart is made, closing with this the sequence of steps in the chain of economic decisions that turn over land and housing in the Constitutional texts: intervening in the final product the action over the economic space.

[15] op. cit. 13. p. 31

(...) From this declarations in the Constitution preamble is possible to extract three structural principles: the guarantee of a constitutional text that respects the human dignity and serves to the world peace, the conservation and materialization of the German unity and, finally, the support to the European Unity.

Firstly, is established as a structural principle the intangibility of the human dignity and the recognition of human rights with an inviolable and unalienable character as a fundament of any human community, in peace and in justice with the world. At his service an estate structure is sharpened, based in the principles of democracy, State of law, social State and Federal State (art. 20 and 28 GG). This principles comprehend the nucleolus of the protection of human rights and the estate structures, they are fixed permanently and can't be modified, neither by a constructional reform (art. 79.3GG)

The second main principle described in the preamble, the conservation and consecution of the German Unity, is developed by the disposition in which the Federal Constitution was in force, initially only in the occidental *Länder* and applicable in other parts of Germany after their adhesion (art. 23.GG). Moreover, the rules relative to the German nationality must be read in order to not be referred only to the RFA citizens but to other German citizens, especially those of the RDA. Finally, the Federal Constitution forecasted itself extinction at the moment when enters in force a Constitution freely delivered by the German people.

## plans in Germany, as a flexible instrument adaptable to the country's economic situation and needs

The fall of the Berlin Wall is the image of Germany's reunification and Berlin's overcoming its status as a *divided city*. What was previously the border area became the central area of the city, the first spaces for opportunity in the new city.

The huge government apparatus of the Federation, transferred from Bonn to Berlin, easily found accommodation on the central land of the unified city. A basic principle in the construction of socialist cities was the location of government buildings in the centre of the city, as well as the space necessary for public exhibitions and celebrations of Socialism, parades, speeches... Thus, with the elimination of all governmental and administrative institutions of the GDR (German Democratic Republic), enough land was obtained for installing the new government of the now capitalist city.

The return of private property would also have important consequences. All land in the east of the city, until then public, was returned to its owners. The process of returning property deeds was the great opportunity for local investors: the previous owners, disorientated and with important financial needs, sold their property rights to professional property developers who, despite the low price they paid, swiftly persuaded them.

The number of owners *displaced* from East Berlin grew rapidly as land prices rose. Not because the new privatised land was running out and the lack of available land allowed the old owners to demand more money for their properties. No, there was another reason: speculation.

Once the capitalist model was installed in the eastern half of the city, there were hundreds of *higher resale* operations between the original buyers and developers - most of whom were foreigners - with greater financial capacity for instigating projects.

In the middle of this purchasing and selling of land began the large-scale projects for the new Berlin. The Bund government, together with the *Land* of Berlin, designed a huge construction programme for the eastern half of the city. **The first half of the Nineties was a time of large-scale projects.**

Great hopes were invested in these projects. The 20% of the population in the eastern half of the city found themselves without employment (manufacturers in the east closed due to the withdrawal of subsidies, most civil servants from the previous regime were left without work...) and this, together with the great opportunities offered by the capitalist city, attracted a large amount of private investment which saw in these large-scale projects a profitable business.

The *large-scale* construction activity was intended to generate a large number of jobs, as many jobs as there were people without work; **the city had to become a company**. Given hope by the attractive idea of the new city undergoing an urban revitalisation, the government gave every facility to the investment of capital in the real estate sector in the case of public projects, even though this was contrary to tradition.

**The foundations were laid for the capital of Europe, which was to unite the headquarters of the largest European companies and corporations, a great European city of administration and services.**

[18, Also in the State level: Projects "German Union" as a guarantee of success in new Länds]

In the middle of the Nineties, during construction of the *tertiary central city*, amid the still classic line of public leadership in urban development, a new front of activity opened up: *new growth sectors*. The anticipated wave of business activity would fill the city centre office buildings, it would have to be accompanied by residential housing. The newcomers, attracted by the large number of jobs on offer, came not only from East Berlin and East Germany, but from all over Europe. The city had space for everyone, it would welcome both qualified and unqualified labour.

Thus, residential projects in less central areas began to take shape (particularly in old industrial areas by the river, in old disused railway and port areas...) The government would design, direct and implement the projects.

Now a few years had passed since reunification, the government thought it the right time to consider its first reflections. With the entire city under construction and all of the projects underway it was difficult to assess and even more so to extract results. Monitoring of the situation, however, allowed a glimpse of only a trickle of companies setting themselves up in the brand new offices in the Potsdamer Platz or Alexander Platz; only a small number of newcomers looking for work... It was believed that these were premature signs, rather than signs of a slowing down, and that there was no reason for alarm. It was just a question of time.

The clear signs of alarm were coming from the city already in existence, the one that was not under construction; it was demanding help. Important social changes required urgent intervention.

A form of *social sectorisation* was conceived (without becoming a ghetto situation) where the wealthier strata moved from the central districts of East and West Berlin to the new residential sectors promoted by the government in the new suburbs or even outside the city itself.

Meanwhile, in the inner neighbourhoods and districts serious problems of exclusion began to arise due to this *social selection* (with unemployment as a main cause). The alarm reached the Senate, which appointed a committee of experts to design a programme that guaranteed social cohesion and integration.

From this point onwards, the 15 districts of Berlin would each have a *social administrator*, who was to ensure the proper functioning and social promotion of the district, including institutions, associations and citizens in this.

The government understood that it was the time to focus its efforts and attention on the existing population and city, with the *large-scale residential projects* temporarily no longer a priority.

It designed an important socio-economic strategy, the "Social City" project, framed within a very important programme of citizen participation, which was the only real possibility. With the precedent of tertiary projects in the central part of the city, the aim was to involve the real

estate sector in urban regeneration projects, stimulating private investment in needy areas. The government would basically act as a catalyst for urban reorganisation, establishing an alliance with the private sector, the latter taking the reins in an economic sense. **Reading between the lines, it was already possible to see the first signs of the German government's economic depletion in its turning to private capital for the first time.**

Returning to the projects being carried out in the centre of the city, the aforementioned *large tertiary scale*, these were an example of practice that was not very common in German government.

Furthermore, the *large-scale residential operations* were an example of the traditional policy of public leadership in urban development planning and projects.

Despite the fact that a private developer was normally commissioned to carry out urban development and construction activities, the main load of responsibility for management and funding lay with the public sector.

Here we are referring to the *urban development measures* that were reintroduced in the Nineties with the redrafting of the Municipal Planning Code (*Baugesetzbuch, BauGB*), a drafting that would allow the government more flexible management and more simple implementation of projects. The key instruments will be expropriation and pre-emption and buyout in favour of the public sector, making it possible to have swift access to the land required for the project.

These measures allow the public sector complete control of the planning processes, as, in addition to directing the whole process, the government is also responsible for determining the starting point for urban development and building activity. This means that if the project is not carried out swiftly enough, the value of the property (paid at market rates) may remain frozen for a certain time period (with no responsibility assumed by the government).

At a later stage, part of the profits are once again obtained by the city by means of a *comparative redistribution of land*, as the owners must make contributions via the surrender of some of the redistributed land as compensation for economic improvements they have benefited from due to the new distribution of land. **All of these measures impede individual speculation on urban development, and even compensate the community.**

The Federation transferred the responsibility of designating *development areas* and authority for applying *urban development measures* to the municipalities, with the exception of the city of Berlin. As it is a city state, the *Land* is responsible for these initiatives, the districts that accommodate them only play a marginal role in the planning process.

That is the same as saying that the *municipalities that comprise Berlin* have no role in the matter, as the 15 districts of the city have the status of municipalities.

The participation of private investors in developing the "Social City" programme was already symptomatic of an economic crisis, at least in the public sector.

Since then, **urban regeneration has no longer been resolved by means of the traditional intervention of the State and its agencies**, these are the beginnings of change. It is not surprising that the public/private partnership was *initiated* with this type of projects, as they do not normally include urban development costs (or these are low), a fact which makes the project very attractive to the private sector.

In line with this, **instruments were sought to provide more flexibility and facilities for developers**. From 1993 onwards the "Project and infrastructure plan" *Vorhaben-und Erschliessungsplan*, **authorised developers to build when they had only assumed financial responsibility for the project.**

The largest private project of this type was in Potsdamer Platz. This large area of land at

the centre of what was previously the border between east and west has been transformed into a new centre for offices, housing, commerce and urban leisure. The sale of land in 1990 to Daimler-Benz represented the beginning of private investment projects that would from that moment on mark the future of development in Berlin.

Along with the aforementioned instruments, and with the aim of attracting still more private capital, a committee was established in 1991 "the inner-city investment coordination committee" *Koordinierungsausschüß für innerstädtische Investitionen* or KOAI, which was in operation until 1993.

KOAI was intended to replace the **lack of legal regulations in the mechanisms for incorporating private agents into urban development activity, as all agreements made with private agents were done so via informal pacts**, something which generated a certain amount of confusion.

In just two and a half years of existence, from February 1991 to September 1993, the committee past rulings on over 50 large-scale projects, 16 of which were in the Fiedrichstraße. It is not surprising that in the end it became known as OKAY.

Recently **the public-private tandem has extended to development areas**, demonstrating the lack of improvement in the government's economic capacity, rather the opposite.

**The range of instruments that benefit the private developer in terms of flexibility and speeding up processes has increased**, going as far as the launch of a controversial planning instrument called *Städtebaulicher Vertrag* or "planning contract", **whereby the city agrees to reclassify vacant land as, normally, residential land, provided that the private investor agrees to finance the project.**

Germany, **but in particular Berlin, is witnessing the "privatisation of planning", although under conditions that pose very important questions regarding legitimacy and responsibility.**

On this point it is similar to the town planning processes traditionally carried out in Spain, with the significant difference of a strict legal framework in place for over 50 years, the bases of which we shall leave to one side, highlighting, however, its existence.

Thus, in Germany, **from the unique opportunity offered by plans, should measures not be taken to lessen the growing conditioning effect the private sector is exercising over planning?** We shall begin by reviewing the instruments of planning.

## general overview of the study of urban development plans and programmes in Catalonia and the *Land Berlin-Brandenburg*

In Germany, as in most countries, two types of planning exist.

In the first type we find *strategic* or *programmatic plans*, which may address one single aspect, as is the case with what is called "sectoral plans". They are not binding for the owners, although they are for governments.

In the second type, we find *operative plans*, which include the real concept of town planning. We find them on different scales and in different geographical areas, arranged into a hierarchical system and maintaining coherence. We might say that the closer they are to the citizen, the greater their definition and prescription.

There are three levels of this latter type of *operative* or *formal* plan in Germany.

The first level would be *regional planning*. This is a planning system that for the geographical scope of the *Land* of Berlin has been traditionally designed jointly with Brandenburg; in this case we could speak of supra-state planning, comprising the plans *Landesplanung Berlin-Brandenburg* (LEPeV) and five minor regional plans, *Regionalplanung engerer Verflechtungsraum*.

On a municipal scale (in the case of Berlin, federal) the *Flächennutzungsplan* (FnP), we have seen in the previous section that this corresponds with planning guidelines, representing the fundamental elements of urban planning design. This plan will outline territorial resolutions.

The third and final scale corresponds to the district plan, *Bebauungsplan* (BNP), which as we have also seen cement the proposals of its predecessor, the FNP, and is directly binding for citizens. Due to the special status of state held by the city, the 15 districts of Berlin are considered municipalities. We may therefore find B-plans that extend to include the *municipal*, although most of them will be on a lesser scale.

We have seen how both the F-plan and the B-plan are based on *Bund* legislation, i.e. the *Baugesetzbuch* (*BauGB*)

The guideline planning level has a broad spectrum in Germany. At the level of the *Bund*, we find the *Raumordnung des Bundes*, which represents planning for the whole Federation. This stipulates which elements are under the jurisdiction of regional state government, transport infrastructures, protected areas,...

At a lower level, the different departments of the federal governments emit *Sektorale Entwicklungsplanung* (*StEP*), sectoral plans based on federal legislation. These are planning schemes which address subjects of particular relevance, school plans, hospital plans...but also health plans, electricity, based on the legislation relating to each sector.

Sectoral plans are based on the *Baunutzungsverordnung* (*BauNVO*), the German Building Code, which contains detailed regulations regarding global and itemised uses.

Based on the same *Bund* legislation, the "local development plans", or *Städtebauliche Rahmenplanung*, revise the resolutions in the sectoral plan, StEP, for a specific area. We find these for land which is already urban (without a B-plan), and they are therefore directly executive.

Now in the realm of building, "construction plans" *Bauplanung*, *Baugenehmigungs-verfahren*, situate future construction in the urban context. These would be equivalent to our *detailed study* in Catalonia, in disuse since the coming into effect of L2/2002.

[19, territorial planning as the main tool for the territorial organization, because the need of controlling the excessive growth in some urban areas]

Finally, and based on specific environmental legislation, the federal-wide "Landscape Programme" *Landschafts-programm* (sc. 1/50,000) and the "Local Landscape Plans"

*Landschafts-pläne, Grünordnungs-pläne* (sc. 1/1000), complete the traditional conceptual or guideline planning in Germany.

In Spain, contrary to Germany, a State territorial plan does not exist. National sectoral plans (rail, ports and airports) do exist, however. **Powers for the regulation and drafting of urban development plans reside exclusively with the Autonomous Regions, which leads to significant differences between regions, due to the lack of a general framework.**

At the level of the Autonomous Region we find a great diversity of planning instruments, which are numerous in linking rank and range of topics. These range from *regional* sectoral plans relating to roads, housing...(anything that comes under the jurisdiction of the Autonomous Regions), to director plans, strategic plans, territorial plans...

If we look at the municipality, today we find only one planning instrument, the Municipal Urban Development Plan, which succeeds the old General Plans and Subsidiary Planning Regulations. These are obligatory for all municipalities and their resolutions are binding, due to the fact that they have a significant degree of definition. Although for these to be put into practice there is a need for development planning, there would be little margin for planning without the prior modification of the Municipal Urban Development Plan (POUM).

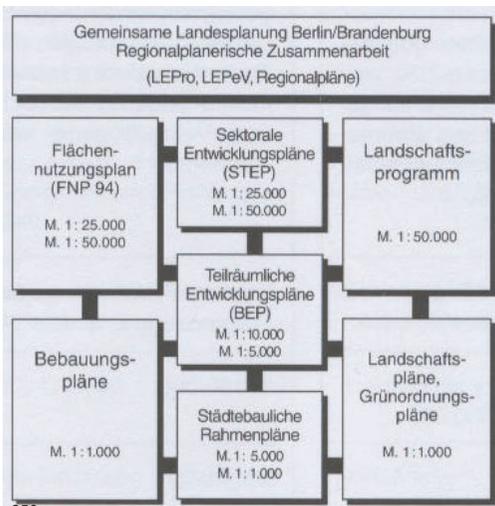
The POUM determines land regulations, which with the new State Land Act we have seen may now be similar to the German categories of "urban land with and without a plan" and "external undeveloped land" or "without a plan".

Development planning details the resolutions for constructible land, which is to disappear according to the measures of the Land Act.

There is also *special* planning, which, as its name suggests, resolves anything that does not fall under the auspices of other instruments, and may accommodate any of the land systems.

**Spanish town planning has traditionally been - both physically and legally - binding at all of its levels.** As it represents the translation of laws into images, it has a high degree of detail, and has placed strict obligations on the government and owners in particular.

**At a time when the obligation on owner-developers to guarantee collective assets in accordance with that established by law** - in return for the real estate business they receive - **is not such a bad thing** (as we have witnessed from the German experience)-, **the new Spanish State Act arrives and presents scenarios without guarantees for the property business.**



Schema source: Senatsverwaltung für Stadtentwicklung, Flächennutzungsplan Berlin, FNP 94, Planning levels in Berlin Land

The extinction of constructible land will not allow for the prior calculation of operations, something which may reduce investors' enthusiasm due to fear of a cold market response, and **perhaps thereby also endangering collective assets.**

With the progressive loss of the blueprint in planning, the degree of hierarchical link between plans is reduced; differentiations will be made between structural and non-structural decisions, with in-depth knowledge at the time when the more detailed plan is approved of those actions to be programmed into the planning.

**How should the Spanish and German plans, which as we have seen are increasingly tending to resemble one another, approach the guarantee of public land?**

We shall take a more detailed look at the types of German plans that are more relevant to our objective, stopping when necessary to make comparative points or when we find significant elements that may help to construct the thread of our proposal.

### Regional planning, based on cooperation between states

The state of Berlin and the region of Brandenburg, which has a small population, agreed on a common territorial plan for all of their territories.

[20, restructuring federal territory: *lānds* with similar features]

The main objective was to control suburban growth on the outskirts of the city, where regulations allow building activity. Special attention is paid to the main transport routes to avoid excessive linear growth, an excessive proliferation of commercial centres. The regional plan will therefore guarantee the land for the future international airport Brandenburg-Berlin International (BBI).

In order to coordinate planning efforts, the federal states of Berlin and Brandenburg created a planning authority in 1996. Within the jurisdiction of both states, four *neighbourhood councils* were also created, to co-operate with the local neighbouring authorities in the use of land and on local development plans.

A joint supra-federal programme was designed, *Landesentwicklungsprogramm (LEPro)*. A series of plans were prepared in 1998 in response to the programme *Landesplanung Berlin-Brandenburg (LEPeV)*, for the city of Berlin itself; and five more minor regional development plans *Regionalplanung engerer Verflechtungsraum*, for the area surrounding the city of Berlin. The resolutions of the LEPeV must be included in the F-plan for Berlin. Although the scope practically coincides, it is a plan from a superior hierarchy and according to that established by law binding for plans of inferior rank.

Therefore, for approval of the LEPeV, authorisation is needed from the *Länder* of Berlin and Brandenburg, as is the case with regional plans. Before approving their respective plans, the five communities are required - by State legislation - to submit the plan to the planning authorities of the *Land* of Berlin for formal consultation.

Apart from these formal consultations, Berlin, the neighbouring districts and municipalities also co-operate in a more informal and voluntary way. Within the framework of the four *neighbourhood councils*, information is exchanged and subjects discussed which are later brought forward to consultation in the formal procedure.

The results of this process, which has been implemented over the last decade, have demonstrated that it is an indispensable form of co-operation. For the city of Berlin, which comprises 75% of the population and 80% of the economic activity in the region of Berlin-Brandenburg, the centres of the metropolitan environment may be an important strategic element when designing instruments for national and international planning.

# Landesentwicklungsplan für den engeren Verflechtungsraum Brandenburg-Berlin

Vorentwurf

Stand: 16. 9. 1994

**Raumkategorien**

- Siedlungsbereich
- Potentieller Siedlungsbereich
- Freiraum mit besonderem Schutzanspruch
- Freiraum (mit großflächigem Ressourcenschutz)
- Entwicklungsraum Regionalpark

**Schwerpunkte im Siedlungssystem**

- Städtische Siedlungskerne \*
  - Handlungsschwerpunkte \*
- \* können auch in Kombination auftreten

**Gliederung der Siedlungsräume durch Freiraumelemente**

- Übergeordnete Grünverbindungen
- Grünzäsuren

**Raumbedeutsame Trassen für Straßenverkehr**

- Großräumig bedeutsam
- Überregional bedeutsam
- Noch nicht festgelegter Trassenverlauf großräumig / überregional
- Erforderliche Ortsumfahrung/-umgehung einer großräumigen / überregionalen Trasse

**Raumbedeutsame Trasse für Schienenverkehr**

- Großräumig, überregional bedeutsam (Bestand / Planung)
- Überörtlich raumbedeutsam mit Erschließungsfunktion für potentielle Siedlungsbereiche und Handlungsschwerpunkte (Bestand / Planung)
- Verknüpfungspunkte

**Raumbedeutsame Wasserstraße**

- Großräumig, überregional bedeutsame Wasserstraße mit Bedeutung für die gewerbliche Binnenschifffahrt

**Flugverkehr**

- Bestehender Verkehrsflughafen
- Standortalternative Großflughafen Berlin-Brandenburg-International (BBI)
- Regionaler Verkehrslandeplatz / noch nicht festgelegter Mikrostandort

**Raumbedeutsame Verkehrsinfrastrukturanlagen**

- Überregional bedeutsamer Hafen (Bestand / Planung)
- Güterverkehrszentrum (geplant bzw. im Bau)
- Ausgewählte sonstige Verkehrsinfrastrukturanlagen (KLV-Terminal / Rangierbahnhof) \*kombinierter Ladungsverkehr

**Grenze des Planungsraumes**

- engerer Verflechtungsraum

- Gewässer

- Landesgrenze Berlin
- Kreisgrenze
- Gemeindegrenze

Maßstab 1 : 100.000 im Original

**Flächennutzungsplan (FNP), Berlin's Land Development Plan, internal development strategy to the detriment of urban expansion**

As its name suggests, the *Land Development Plan* basically provides a distribution of land uses in accordance with the strategic development aims established by the regional plan. It is a plan for the entire city which contains regional policies and is approved in its final stage by the City Council.

The current plan dates back to 1994, the one immediately preceding it is from 1990 and the first of these plans as such is from 1965. It is regularly updated every four years, the most recent update being in 2004, which includes the modifications implemented up until that date. The experience demonstrates that between 10 and 15 modifications are required each year in order to continue guaranteeing the strategic part of the plan.

With regard to the contents of a *Flächennutzungsplan (FnP)*, Article 5 of the German Town and Country Planning Code, *Baugesetzbuch (BauGB)*, establishes the requirement to differentiate between *bepflanter Bereich* - "land with a plan", *Innenbereich* - "urban land without a plan" and *Außenbereich* - "external undeveloped land". The same article refers to the need to specify the uses of land in these "systems".

**In an F-plan, uses are determined for very large areas. We might say, as a rule, that it will not allocate uses for plots under 3 Ha.** This threshold, characteristic of Berlin planning, means that for example facilities of under 3 Ha. in size do not appear highlighted on maps or mentioned in the documentation of the plan.

For "urban land without a plan" the FNP provides all of the information necessary, as it allocates the uses, provides ratios regarding "land occupancy" for different categories and also proportions for constructible land and total roof area (constructibility).

**Therefore, the F-plan is directly executed on urban land "without a plan" by means of the "local development plans", or *Städtebauliche Rahmenplanung***, designed by the different districts to ensure harmony between the resolutions of the FNP and the different StEP (sectoral plans).

Overall uses, *Bauflächen*, and itemised uses, *Baugebiete*, are regulated by means of the German Building Code, or *Baunutzungsverordnung (BauNVO)*. In areas "without a plan" this regulation is directly applied; for land to be developed ("with a plan"), the BNP is applied.

(An appendix is attached with articles from the BauNVO that define uses, maximum constructibility values, etc...)

**For "urban land with a plan" a similar procedure is followed, and it is precisely here where the main differences with the Spanish municipal plan lie.**

For areas of development an F-plan will establish the scope - which will be further developed in the B-plan - and assign a global use, for example intensive residential use, without further details, as it will rarely contain facilities, infrastructure, green spaces...of over 3 Ha.

If this were to be the case, *public plots* above the threshold would automatically be excluded, as they would have the status of *city infrastructure* (similar to our general systems) and be the sole responsibility of the government, not shared (through special contributions) with the owner.

We can state, then, that **facilities, green spaces and other public elements of the general or city type remain outside the scope of any development plan** (if applicable, obtained by means of special contributions); **they will be directly expropriated by the government** and included in their budgets.

Thus, in Germany, **development plans only bear the label of the primary private use, eliminating all possibility of land purchase for speculative reasons, in order to know**

**beforehand the economic loads of the plan, and therefore the viability of the operation or lack thereof.** In Spain it is the opposite.

It is, in essence, a classic *zoning plan*, where uses per individual plot do not appear, and there is no differentiation from the general zoning proposed for the area where said plots are located.

Since 1994 and up until the last update in 2004, over 150 modifications to the plan have been initiated. Of these, 100 are in operation, covering a total of 2.5% of the city. Modifications to the land development plan are basically made due to one of the following circumstances:

- Changes in use, due to continuous *monitoring*: rezoning of areas originally allocated to infrastructure or other public facilities and now required for housing, industry, free spaces of other uses
- Preservation of free spaces in locations not deemed to be required for development purposes.
- Planning adjustments in areas where there is great pressure to develop: intensification of land uses in some parts of the city centre, adaptation to new commercial and economic trends

By way of summary, in the modifications implemented since 1994 there have been significant reductions in land use, originally for public purposes (rail, schools and other public facilities). On the other hand, the total land divided into zones for free space and housing has increased. Finally, we can add that there has been a movement away from areas initially planned as high density (M1) towards areas of low density (M2).







**The provision of additional jobs, particularly in areas well served by public transport; Strengthening of the polycentric structure of the city through the integration and development of existing centres; Location of public services in places of great importance.**  
To construct a city of small distances, with **efficient public transport** and intelligent solutions for commercial transit; **To preserve open spaces**, support for a compensated urban ecology.

Despite the priority awarded internal development, the land development plan must retain **strategic options for exterior growth, if required.** In the event of a favourable economy that led to pressure to construct, it would be necessary to make additional land available in a relatively short period of time.

These reserves are basically located in the north and north-east of the city, near the centre, where public transport and other services can be provided at relatively low cost. New areas for housing but also for work, where public and private operators will bid according to demand.

When the plan was presented in 1990 it was accompanied by a map of "stages of implementation". This displayed the locations of land and route proposals to be implemented only in the event that there might exist a large demand or strong growth.

This concrete proposal for growth is framed within a study called "Berlin 2020", which analyses the situation in the city and formulates long-term proposals. From observation of this reserved land, it has been found that the most important remaining land is still located in the existing city.

When making proposals for growth, the plan will take into account other documents of great significance to land reserves. Sectoral plans, or *Sektorale Entwicklungsplanung*, (StEP), drafted by the different departments of the federal government constitute a binding strategy, being in themselves a programme of needs.

Sectoral plans currently in force, StEP, are taken into account when drafting the F-plan and all of its revisions.

The explanatory report of the NFP, the *Begründung*, incorporated within the documentation of the plan, will include explanations of the corresponding sector proposals. This will be accompanied by sectoral plans, the *Erläuterungsplan*, which presents the proposals in graphic form.

Furthermore, when reviewing and updating the StEP, the proposals of the F-plan will be taken into account, a reversible process that guarantees the presence of the sector proposals in the general framework and vice versa.

The **sector concepts, or Sektorale Konzepte**, for which the plan will incorporate the corresponding *Erläuterungsplan*, are as follows:

*Wohnen* (housing); *Arbeitsstätten* (jobs); *Zentren* (centres); **Öffentliche Einrichtungen (public infrastructures, facilities)**; *Ver-und Entsorgung* (technical services); *Verkehr* (traffic); *Freiflächen* (free spaces)

The explanatory report document, or *Begründung*, is also updated every four years in order to incorporate modifications to the plan.

We must bear in mind that with the revision of the Act in 2004 this document changed its name. The name of the previous explanatory report for the plan, the *Erläuterungsbericht*, was changed due to the introduction of the environmental report within the body of the document. It is important to remember this, due to the fact that there are still not many documents with the name *Begründung*, due to its short existence.

For the sectors of housing, services, centres...we will not find a specific report, as they will be integrated into the plan in the aforementioned manner.

On certain occasions the B-plan and F-plan only partially include the resolutions from the sectoral plans, either because it is not deemed possible to fulfil them, or because the plan has a different approach; both cases must be duly justified.

### **Sector development plans (StEP), mutual feedback with the Land Development Plan (FNP)**

These plans specifically address sector issues at a municipal level. They are prepared for specific areas such as *residency, industry, social services, transport, public services, and free spaces*, but also for more conceptual matters such as the *hierarchy of urban centres* or the *design of public space*.

These plans are drafted by the different federal departments responsible for the subject area, with a common basis: demographic projections are produced by the *Town Planning Department* and distributed to the other departments.

We have already seen how most of the StEP are included in the F-plan document, defining sectoral planning objectives:

#### The Municipal Development Plan for Housing (StEP Wohnen)

Drafted by the *Town Planning Department* itself, it is aimed at providing guidelines regarding space and quantity in relation to housing requirements. The construction of rented housing is explicitly rejected, promoting ownership, and large suburban housing developments are also rejected, in favour of prioritising the completion of the existing city.

With regard to housing we find a couple more StEP, which also more specific: *Housing for the Elderly (Wohnen im Alter)* and a second on *Urban transformation (Umbau)*, the situation regarding residential housing: inventory of empty flats, etc...

Population projections for 2010 indicate that the population will remain more or less stable, although for various reasons it is believed that there is a need for 50,000 further residences in addition to the 150,000 provided for in the 1994 FNP.

The first reason would be the recovery of a significant quantity of housing currently in disuse. This takes the form of a stock of residential buildings, prior to 1948, of great historical importance, located in the heart of the older neighbourhoods. These must be carefully rebuilt and modernised to become a vital ingredient of his neighbourhoods.

In order to achieve this objective, the Senate has designed a very complete programme addressing from recovery of the residences and improvements to the existing housing to the creation of new social infrastructures, including the promotion of new jobs.

This programme is integrated within another higher-level federal programme - *Reconstructing the cities of East Germany*, which proposes the modernisation of ex-Soviet cities by means of reconstruction and recovery, when appropriate, but also by demolishing large State developments, wherever necessary.

Secondly, it is deemed appropriate to complete and densify certain areas that are already urban, for two reasons: to introduce the critical mass necessary for the good functioning of the neighbourhood, and to take advantage of existing infrastructures designed for a higher total of residents than currently exists.

#### The Industrial Municipal Development Plan (StEP Gewerbe)

The aim of this plan is to guarantee existing industrial locations, reserve areas for extensions, always attempting to maintain the minimum distance between housing and workplace.

The city is still suffering the serious process of industrial adaptation that began in the Nineties. Over the years there has been significant number of job losses, which have not been translated into the services sector.

Despite this, as well as preserving existing industrial locations (normally of mixed use),

the F-plan will also incorporate as potential industrial locations industrial locations that have been abandoned or are in disuse once the land has been cleaned up and recycled.

This **additional new industrial land**, estimated to be 500 Ha., **is intended as a reserve to guarantee the long-awaited future economic upturn**. Located mainly in the old east-west border area, it is accompanied by high-quality research and cultural facilities, which guarantee its attractiveness.

The renovation of existing industrial land and preparation of new locations requires investment. As public funds are so limited, it is necessary to provide a full definition of priorities and locations, whilst taking care to bear in mind the services that are to accompany this manufacturing activity. **The industrial sectoral plan becomes a key tool not only for planning but also for the strategic-economic design of the city.**

#### Plan for the location of offices and companies (StEP Bürostandort)

Existing reports regarding office area indicate that Berlin has approximately 570,000 office workers occupying a surface area of 18 million m<sup>2</sup>. As a guideline let us state that in only one year, 1990, 3.4 million m<sup>2</sup> were occupied, 14% of this rented. Currently, however, there is still an excess of approximately 11 percent.

Despite this, continued growth is sought. Along the same lines as the industrial development plan, the intention is not to restrict the processes of economic change.

The F-plan provides above all for offices in the city centre, where demand is greater. This is complemented with more economic locations for other requirements along the length of the inner ring formed by the rail track - also ring road - with the attractive feature of having exceptional accessibility. Finally, others are provided for at other exterior points around the city.

In order to correctly determine the city's tertiary requirements, the supply and demand of offices is monitored by the Chamber of Commerce and Industry, making it possible to obtain regular results. These reports provide information regarding not only tertiary stock, but also companies' location preferences.

#### Municipal Development Plan for Centres and Retail Businesses (StEP Zentren und Einzelhandel):

The surface area dedicated to commerce in Berlin grew from 2.6 to 4.2 million m<sup>2</sup> from 1991 to 2003. With this, Berlin is slightly below the German average in terms of surface area per inhabitant.

What is attractive about Berlin as a city to live in is mainly its polycentrism and the quality of the commerce found there, which must be improved and preserved through planning. Commercial facilities are closely related to those of leisure and culture which, integrated correctly into green spaces, improve existing centres.

This type of strategy has been adopted in order to revitalise the centres in the eastern part of the city, dominated by commerce, avoiding excessive concentrations. It is a strategy that has brought fine results.

The Plan for centres is also aimed at ridding the city of mistaken strategies, such as the current range of commercial centres beyond the city limits; it is important to reduce excessive total roof area.

#### Plan for Municipal waste maintenance and elimination (StEP Ver-und Entsorgung)

Aimed at addressing the deregulation of the energy market or new EC regulations, including support for new growth projects in the city and the complete cleaning up of the last segments of the sewage networks, which are too old.

#### Mobility Development Plan (StEP Verkehr)

Mobility and transport are indispensable elements in cities, although at the same time traffic has serious implications for the environment and quality of city life. Bearing in mind these contradictory concepts, the land development plan is intended to avoid unnecessary traffic thanks to the improved location of activities, whilst also guaranteeing free-flowing traffic and a transport network that respects the environment.

By locating complementary land uses near one another and strengthening the hierarchy of urban centres, the land development plan helps to reduce the amount of travel and distances between locations. In this way traffic can be distributed more homogeneously without ever having to reach the maximum capacity of the network.

New development areas are preferably located at points where public transport already exists, with the aim of reducing the planning of new traffic routes to a minimum.

A general objective is for 2 of every 3 journeys made in the city and 4 of every 5 in the city centre to be made on public transport, on foot or by bicycle. Therefore, no further routes are planned for the more central areas of the city in the land development plan. The role of the tram is reinforced.

For long-distance journeys by train, the land development plan provides for the new central station *Lehrter Bahnhof*, currently under construction, which will serve the more important outlying routes, and will also act as a decentralising element for the main stations.

The F-plan includes very few new infrastructures. We might think that efforts will be invested in more "minor" infrastructures, and that these therefore do not need to be highlighted in the FNP. This is the case, although the most significant fact is the financial limitations of the city which, in terms of *large-scale projects*, will only go far enough to finance the completion of the inner-city ring road to the east. This ring road will reduce traffic in central areas. Thus, the priority will be the maintenance and improvement of the existing road and rail network.

The sectoral plan for transport provides for ambitious long-term infrastructures which the F-plan will include, reserving the necessary routes without a timeframe. The planned infrastructures can be programmed, if the economy allows it, in the four-yearly updates of the plan.

The sectoral plan proposes, in addition to the aforementioned, the application of *soft policies* in order to reduce private transport by subjecting it to taxation (increased car park prices, some form of urban toll...)

#### **Local development plans, the equivalent of the municipal urban development plan**

We might say that these are the plans that establish the link between the FNP and the citizen. Every district (municipality, in the case of the city-state of Berlin) will design its own *local development plans* to cover the whole of the governed territory; we are referring, then, to the equivalent of our municipal plans.

These form the framework of the following levels of planning, that is, the *development plans (BNP)* are reflected previously in the *local development plan* of the district to which they pertain.

Within the framework of the FNP, they differentiate between public land and private land, contain land use regulations and building densities, and also determine the degree of occupancy. They pay particular attention to environmental aspects, with regard to both regulation and design.

They cannot determine aspects relating to the city as a whole (transport routes, public services...), as this is a function of the FNP. Growth is restricted to 500 residences.

Entwicklungsrahmen FNP (Übersicht)																
B-Plan FNP	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p
	VMS, VWP reines Wohngebiet	WVA, VWA allgemein Wohngebiet besonderer Wohngebiet Kernsiedlungsgebiet	MII Mischgebiet	MD Dortgebiet	HK Kerngebiet	GE Gewerbegebiet	GI Industriegebiet	SO (Erdung) § 10 BauNVO	SO (Verkehr) § 11 BauNVO	F Fläche für Gemeinbedarf	V Ver-/Entsorgungseinrichtungen	S Straßenverkehrsfläche	E Fläche für Betriebsflächen	G Grünfläche (siehe Zusätze Bestimmungen)	L Landwirtschaftliche	Wald
1 Wohnbaufläche W1 - W4	■	■	□	□	□	□	□	□	□	□	□	□	□	□	□	□
2 Gemischte Baufläche M1	□	□	■	■	■	□	□	□	□	□	□	□	□	□	□	□
3 Gemischte Baufläche M2	□	□	■	■	■	□	□	□	□	□	□	□	□	□	□	□
4 Gewerbliche Baufläche	□	□	□	□	□	■	■	□	□	□	□	□	□	□	□	□
5 Sonderbaufläche	□	□	□	□	□	□	□	■	■	□	□	□	□	□	□	□
6 Sonderbaufläche Hauptstadtfunktionen (H)	□	■	■	■	■	□	□	□	□	□	□	□	□	□	□	□
7 Gemeinbedarfsfläche	□	□	□	□	□	□	□	□	■	■	□	□	□	□	□	□
8 Fläche für Ver-/Entsorgung	□	□	□	□	□	□	□	□	□	■	■	□	□	□	□	□
9 Straße (ÜHVST)	□	□	□	□	□	□	□	□	□	□	□	■	■	□	□	□
10 Bahnfläche, -trasse	□	□	□	□	□	□	□	□	□	□	□	□	■	■	□	□
11 Grünfläche	□	□	□	□	□	□	□	□	□	□	□	□	□	■	■	□
12 Landwirtschaftsfläche	□	□	□	□	□	□	□	□	□	□	□	□	□	□	■	■
13 Wald	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	■

■ Regelfall, ohne Größenbegrenzung  
 □ Regelfall, bei Fläche < 3 ha, örtliche Bedeutung  
 ○ Einzelfall (eingeschränkter Umfang, örtliche Bedeutung)  
 / grundsätzlich keine Entwicklungsmöglichkeit bzw. kein Regelungsbedarf  
 Anmerkung: Die Abbildung gibt einen grundsätzlichen Überblick über den Entwicklungsrahmen des FNP Berlin. Die Voraussetzungen für ergänzende Differenzierungen sind dem Text zu entnehmen. Der Charakter der dargestellten Flächennutzung ist zu wahren.

Image source (this side):  
 Senatsverwaltung für  
 Stadtentwicklung,  
 Flächennutzungsplan Berlin,  
 FNP 94.  
 Zoning categories related  
 with location in Development  
 Local Plans

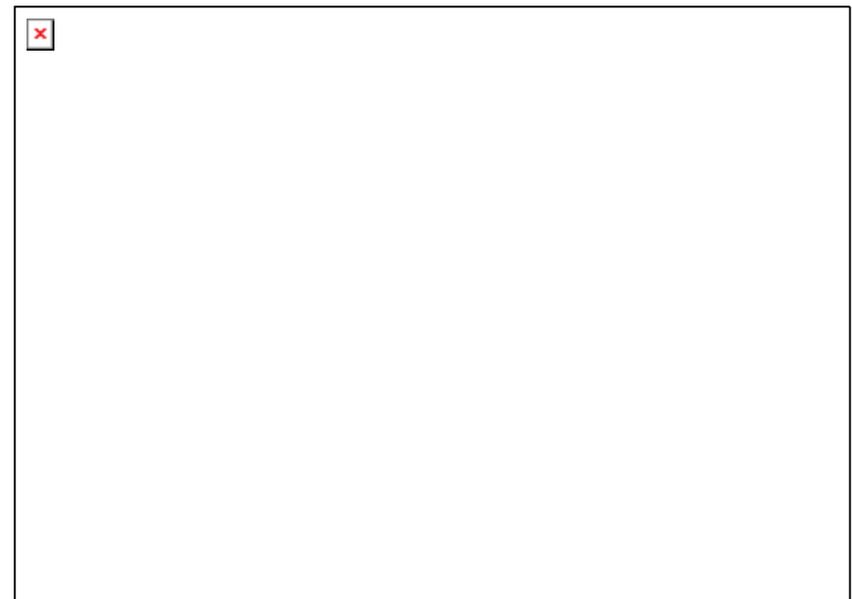
Image source (above):  
 Senatsverwaltung für  
 Stadtentwicklung,  
 Flächennutzungsplan Berlin,  
 FNP 94.  
 BNP project Eldearer Straße

administration and citizens alike. They must respect sectoral planning, should it exist, and if not may establish its own resolutions.

The *Baunutzungsverordnung* or German Building Code, applicable directly to urban land "without a plan", plays the central role in the BNP. Article 1.1 contains detailed regulations regarding the general uses of land *Bauflächen*, {art. 1.1 BauNVO}, and itemised *Baugebiete* {art.1.2 BauNVO}, and included in these, those uses which are generally admissible and those which are admissible by exception, for each of the areas {3 BauNVO}.

These are directly applicable regulations that admit very few exceptions. One example of an exception would be with regard to superstores, which, with the exception of the city centre, may only be constructed in the so-called special areas {11.2 BauNVO}. They also regulate *constructibility* (constructible square metres and cubic metres of construction per m2 of property), height, form - open or closed - of the construction, etc... {arts.16 to 23 BauNVO}. The BauNVO would be, then, a kind of land statute, insomuch as it limits the options for economic profit to be made on plots of land, and lists recommendable uses, those admissible under certain conditions and those which are always prohibited.

Lastly, the *Musterbauordnung* (MBO) would be the equivalent of building bylaws. The Bund has drafted a *Bauordnung* (the last one in 1992) which has been used as a model for the *Länder* when drafting their own. They contain the technical regulations for construction, the procedure for granting licenses, and town planning disciplinary measures, as well as guideline and environmental parameters determined by the plans. For example, they establish the height and width of properties, characteristics of gardens, size and number of parking spaces... as well as other factors that must be taken into account in the building project (number of baths, showers and windows in bathrooms...).



In both cases, an exception is made when a *local development plan* includes a *development area*, and therefore a BNP. The *local plan* may affect more than one district - municipality - and exceed the pre-established number of residences. This *supramunicipal* character of the *local plan* for development areas is particularly to be implemented for ecological compensation, or to affect the hierarchy of urban centres due to new growth.

The attached grid shows the relationship between the *zoning* categories in the FNP and the locations in *local development plans*, according to size (3Ha), use,...

**Bebauungsplan, Building plans (BNP) as development plans**  
 They do not cover the entire city, only areas that require planning, filling the gap existing between the FNP and the *local development plans*. It is no surprise that they are mainly located in districts on the eastern side and border areas. In the 12 districts of Berlin, 10,000 B-plans have been drafted to date. **They are the quintessential planning and design tool.** These plans are prepared by the districts of the city, they are legally binding for public

The tables (in appendix) present the calculations we have made, with the following results: For a development of 100 residences of 100m<sup>2</sup> of total roof area/res. (standard scenario), and therefore **100,000 m<sup>2</sup> of total roof area, we obtain a proportion of green space of 70% public and 30% private land.**

For the case of **50,000 m<sup>2</sup> of total roof area** (development of 100 res. of 50m<sup>2</sup>.), **the proportion is 50% public and 50% private**, close to the minimum established for public land of 45%, which would be obtained with 100 residences of 45m<sup>2</sup>. (logically, the legal minimum for obtaining the status of residence).

Finally, for **150,000 m<sup>2</sup> of total roof area**, 100 residences of 150m<sup>2</sup>, **the public land may - legally - be as high as 90% and the private the remaining 10%.**

From this brief and simple analysis we can draw many conclusions:

The most important of these and also the most obvious is the **need for a change of indicator for establishing minimum surrenders**. It becomes clear that working with the variable m<sup>2</sup> of total roof area is inadequate, as total roof area does not always directly translate into the number of people living there. Among the cases studied, we observe great discrepancies in terms of surrendered public land, which would not be the case if number of people were employed as a variable.

Secondly, the **significant differences between maximum and minimum surrenders** - double the amount - it not always being clear that the greater of the two must be surrendered. It would be more efficient, and at the same time safer, to establish a **single parameter for surrenders**.

We therefore note the need for certain **town planning standards**, widely employed in the Sixties as a measure for guaranteeing minimums, especially in the large State-funded developments of the dictatorship. Prior to these *practical standards*, and much more interesting, we also find *theoretical standards*, more generous despite being from an earlier age (the first appeared in a Municipal Act, *the Municipal Statute*, in 1924).

Nowadays, it is not worth our talking about either of these, as standards approached in these terms do not make sense in such a changing and minimally equipped society as we live in today. To this we must add that it **seems inappropriate to treat surrenders for public facilities equally**, without differentiating between purpose, frequency of use...**that is, the degree of need.**

Thus, just as we differentiate in the use of private land (residential, high or low intensity, mixed use, industrial, with or without tertiary...) so it is necessary to differentiate between a **basic facility or minimum service** and a **complementary or additional facility** which would depend on the context, the characteristics and the capabilities of the municipality.

We shall leave this as noted to deal with the issue in the following and final section.

### **The potential of the German public sector, in danger of recession**

Faced with the impossibility of analysing how the legal framework regarding surrenders is applied, due to the fact that one does not exist, we will study three real cases in the so-called *development areas*.

Various *development areas* were established at the beginning of the Nineties, covering a total

of 900 Ha. Included in these were two development projects located along the banks of the river - on the waterfront - *Wasserstadt Oberhavel* and *Rummelsburger Bucht*. The latter is located in the city centre, next to a third development area, *Eldenaer Strasse*, where an important residential project is being carried out in the environs of an old abattoir which has been converted into a commercial and services centre. *Johanistal-Adlershof* and *Biesdorf-Süd* complete Berlin's five large development projects, the latter two still under construction.

As we have mentioned previously in this text, these three projects arose from expectations of significant growth, which were ultimately unfulfilled.

In development projects it is common for there to be a focus that integrates different agents, both public and private. Large-scale projects require certain innovation in institutional relations, there is a critical move from *classic government* to a more plural style of *urban government*.

The public sector is the motor, it has the initiative, it offers the project for tender, awarding it to the contractor that improves the relationship between the project and the budget.

While the project is carried out by a private developer, the role of the public sector consists mainly in making advanced payments, in the style of a creditor. It is assumed that the viability of the project will allow the constructor to make money and the funding government to recover its investment.

To this end, public agencies are created to ensure projects are managed correctly, in their entirety, including financial and administrative management.

Two of the projects studied, *Wasserstadt Oberhavel* and *Rummelsburger Bucht*, share the status of waterfronts and the same public development agency *Wasserstadt GmbH*. This agency will purchase the land, decontaminate it, plan and implement service and social infrastructures...and on an organisational level, assist constructors, possible investors and users, select the financing model, marketing, communications and citizen participation processes.

**Thus the city becomes entrepreneurial, entering into the logics of the market but committing the error of not acting according to its laws.** A strategy such as this is particularly dangerous in large *development areas*, as they are developed for a demand that is far from having an estimate, it is simply unknown. **They are basically conceived as a catalyst**, in this way the government wishes to provoke the reactivation of the economy. **Large quantities of land are acquired, the private sector becomes the creditor, dispensing with the minimum insurance of future commercial profit.**

**Public interest is thereby imposed on a reality that does not produce these values itself, quite the contrary of countries where the private sector is the rudder and motor of town planning.** These situations raise the question as to whether the State wishes to create needs in society and thereby create expectations among the business sector or, on the contrary, it only wishes to intervene for protective purposes.

According to the former hypothesis, from the time when the market is able to take over of these responsibilities (based on a real demand), State action will no longer be necessary.

On the other hand, according to the second approach, we might think that the State wishes to impose a model. Public construction work in Germany is exemplary, displaying great respect for the environment and social concern, with high quality standards.

Development policy that attempts to *exploit* the market must obey the norms it dictates: markets will function provided that expectations of growth materialise.

Thus, **if megaprojects face a crisis of demand, where the market fails to respond, the public budget will have to respond**, with the consequent indebtedness that this entails.

The projects we have studied here suffer from this type of problem, though some more than others. *Wasserstadt Oberhavel* more than the other two more central projects, as the little demand provoked by the stagnation of the property market make it difficult to find a good orientation for the project.

Faced by the large weight placed on the public budget and growing debts, the political opposition has started to question the need for and funding of development areas. The Socialist party (PSD) has even demanded the dissolution of the development agencies.

On the other hand, the Green party demanded a reduction in the size and ambitions of these areas, modifying projects in accordance with current demand.

Finally, in a Parliamentary agreement from June 1998, the Financing Committee requested that the General Auditors Office inspect the financial situation of all *development areas*. Said Office is very committed to providing not just information but also solutions for the reduction of costs and therefore enabling the completion of the projects.

In view of the results, Parliament decided not to grant more loans. Thus, a brake was put on the growing mountain of debt, which totalled 359.3 million euros in May 1998, increasing to 598.6 by the end of the year (data taken from the Fifth Report on Development Areas, conducted by the Construction Department).

Now we have had the required introduction to the projects, let us look at the results of the analysis. The data are grouped according to whether they are public or private, as if we were dealing with *surrendered land* and *unsurrendered land* - very much our own form of presentation - in order to compare it to data for Catalonia.

Below the text we attach the summary of data for each of the projects, which include, in addition to numerical amounts - written and in graph form - a brief description, modifications to planning and an image of the plan.

For *Eldenaer Straße*, the proportions are established as **42% public and 58% private**. For the next project, also in the centre, *Rummelsburger Bucht*, the public reserve is **44%**, and the rest is private.

In the less central project, in a less urban context, there is an increase in green space reserves, with a **total of public space of 54% in Wasserstadt Oberhavel**.

These projects were planned in the Nineties, and modifications were made to the plan for all of them (between '95 and '98), which **still do not incorporate reductions in public land or density, symptoms of the current crisis in the public and private sectors**.

**More recent plan modifications for other similar projects situate public surrenders at close to 30%.**

However, in any of these cases, **what is the quantitative and qualitative basis of public land reserves? How can we preserve minimums for surrender?**

We will analyse these questions in the following section, along with what we have learned from the experience of Catalonia with regard to what an **appropriate indicator for expressing surrenders** should be and in reference to the **necessary differentiation between facilities according to the degree of need, which in turn leads to the use of standards** in the **provision of basic and universal services**.

[21, Citizen's fundamental rights treatment in the Main Law and in the communitarian rules for an European minimum standard provision in service matter]

[16] BLÜMEL, Willi (1994) *Problemes constitucionals a l'Alemanya unificada*. Barcelona: Generalitat de Catalunya. Escola d'Administració Pública de Catalunya. Col·lecció: Materials: 15, p.30

The Federal Republic of Germany has to assimilate, a part of the European Union evolution, the consequences of the German reunification. This leads to a new conception of the constitutional basis. Till the reunification treaty in 1990, the Main Law (GG) suffered 35 modifications. But only with the German Unity was seriously considered a total revision or the substitution by a new Constitution for the German group.

[17] op. cit. 16, p. 75

The defenders of the new estate targets determinations must carry on an strong fight due to the fact that the Federal Constitution thanks his heavy legal power, lastly, to the self limitation of the constituent, which implicates at the same time, all legal rules, together with an effective constitutional justice. This experts are based in the fact that situation changed radically since 1949. In a growing welfare state they have also changed the claims in front of the new Social Estate, in a way that nowadays some specific social grants, even the institutions for procurator assistance will be part of the neuralgic nucleolus of the estate functions, and according to this, must be constitutionalized as state targets. Moreover, the State will be in front of challenges that didn't exist at the moment of elaboration of the Federal Constitution or, in any case, not recognized at that moment; an example could be the destruction of natural conditions of man.

[18] op. cit. 16, p. 10

The communications wideness from east to west is urgent in Germany. Bringing forward to the 1992 federal communications plan agreed by the Federal Government, the 15<sup>th</sup>. July of the same year, the Minister of Transports presented (the 9<sup>th</sup>. April of 1991) to the Minister Council seventeen communication projects "German Union". The main axis east-west accomplish, as the conception of the Federal Minister of Communications, Krause, "a key function for the whole growth in Germany and for the economic boost in new *Länds*".

In the seventeen communication projects "German Union" nine are related to the train, seven are concerned to new roads and one affects the canal union east-west, from Hannover to Berlin.

[19] PÉREZ ANDRES, A.A. (1998). *La Ordenación del territorio en el estado de las autonomías*. Madrid: Marcial Pons: Instituto Universitario de Derecho Público "García Oviedo".p. 195

The territorial organization in the German country is understood as a territorial discipline, mainly focused in the habitat; prove of that is the excessive growth in specific urban areas that made necessary to articulate a new public function to overpass the limited local urbanism. This conceptual sense as a simply *superurbanism* is materialized in the German specialized doctrine, which mainly considers that territorial planning concepts (*raumpfanung*) and territorial organization (*raumordnung*) are practically synonymous. Although this is like that, and the territorial planning constitutes the main tool of territorial organization in Germany, isn't the only one.

Conceived in that way, the *Raumordnung* pursuits fundamentally the coordination in sectoral policies, more than be constituted as an independent policy, particularly substantive and binding for the rest of sectors with a territorial impact. Their functions are defined as directive, integrative and coordinative. Thus, it consists, as we already mentioned, in the urbanism surpass, a public function featurized by the global and the *supraorganizing* goal.

[20] ARROYO GIL, Antonio (2006) *El Federalismo alemán en la encrucijada: sobre el intento de modernización del orden federativo en la República Federal de Alemania*. Madrid: Centro de Estudios Políticos y Constitucionales: Fundación Manuel Giménez Abad de Estudios Parlamentarios y del Estado Autonómico. P. 153

(...) It means, the restructuring of the federal territory with the creation of *Länd* with similar demographic, geographic, economic and financial features which are able to submit, with convenient guarantees, tasks that are at their charge, without need to use persistently aids and grants that come from the Federation or, in fact, from other *Länd*, using the compensation mechanisms or the financial balance.

(...)

Germany –stand those authors- is not located anymore in the situation of *tabula rasa* in what started in 1945; although it's true that only an small part of *Bundesländer* existing nowadays are inheritors of a dilated historical tradition, is not less important that all the rest have been doting during the passed years by new regional identities, to ones they don't want to renounce easily, as exemplifies perfectly the failed purpose of fusion between the *Länd* of Brandenburg and Berlin.

## the sectoral standard as a common indicator for the public guarantee

So far we have seen that in Germany there are no surrender values with regard to public assets, unlike in the Spanish model.

As in practically all northern European countries, in Germany assets *for collective consumption* (facilities) will be included - as isolated elements - within general and itemised uses, in accordance with the precepts of the BauNVO and according to the measures of the plan.

**However, how are needs quantified and uses qualified in this respect?**

If we return to the doctrine on which all German town planning law is based, we begin to find answers.

Let us briefly remind ourselves: "*Urban development activities must be based on a fair weighting of public and private interests*", in relation to the *right to build* granted by the German Constitution.

Article 5 of the *Town and Country Planning Code* (BauGB) determines the ***Erläuterungsbericht*** (Explanatory and descriptive report) of the *F-plan* (Municipal Land Development Plan), to be the **document that establishes the fair weighting of public and private interests**.

Following modification of the Code in 2004, the name of this document was changed to *Begründung*, differing from its predecessor in the introduction of an environmental report within the body of the same.

We will begin our search for answers, then, with the *Erläuterungsbericht* for the city of Berlin (as it was drafted in 1994).

The *ninth clause* of the *Founding Principles of the 1994 FNP* states, according to a literal translation:

*9th clause: An efficient city needs a forward-looking and efficient social infrastructure.*

The attractiveness and acceptance of Berlin as a city in which to live and work is determined fundamentally by the quality and quantity of the facilities that comprise its social infrastructure (cultural, educational, sports, youth and social facilities). In order to respond to the social and legal commitment of achieving a balanced and efficient network of social infrastructures there must be, on the one hand, a guarantee of current stocks or extension thereof according to prevailing needs, and on the other, the fulfilment of the requirements of newly-created neighbourhoods in parallel to their development.

The forecasting and funding of social infrastructure facilities are a pre-requisite for the effective application of educational, social and health policies free from obstructions. Given that - due to its system of representation - the FNP can only partially satisfy these demands, municipal **Urban Development Plans** (*Stadtentwicklungspläne*) and **Location Plans** (*Standortpläne*) are both drafted to cover the entire city.

[p. 25 *Erläuterungsbericht: 1.4 Founding Principles of the 1994 FNP; 1.4.1. Bases for the development of urban structure*]

The sectoral "Urban Development Plans" (*Stadtentwicklungspläne*) together with the "Location Plans" (*Standortpläne*) drafted by the districts will complement the measures of the FNP with regard to public and private assets.

According to the definition given in the *Erläuterungsbericht* of the "Urban Development Plans":

The object of the **Urban Development Plan [Stadtentwicklungsplanung]** is the physical development of the entire city and, given Berlin's status of city-state, **become a sector development plan for the Land**. It represents, in the form of partial sectoral plans, the scope of application for certain measures, the ranges of possible measures and, if applicable, the timeframe for applying these measures. In accordance with § 3.1 AGBauGB, it **must refer to uses such as residential, tertiary, facilities, transport, general services and free spaces**, but also to **special aspects such as urban form and protection of the environment**. Current planning demands require the existence of partial plans referring to the **services sector and urban centre development**.

Urban Development Plans serve as recommendations for the **government** and politicians in power. By resolution of the Senate - and as the municipal development objectives they represent - **they become the basis for subsequent plans**. The Berlin Parliament must be informed of those plans approved by the Senate in this respect.

[p. 55 *Erläuterungsbericht*: 2.1.4 How the FNP relates to other levels of planning. 2.1.4.3 Sectoral Development Plans (Sektorale Entwicklungsplanung, STEP)]

It highlights the existence of some STEP, *plans for facilities* and the need to revise them in later planning (as is the case with the FNP). Let us consult, then, the *public facilities* section of the *Erläuterungsbericht*:

In the *introductory note* to the section there is in fact mention of the existence and use of Urban Development Plans, including the drafting of two specific STEP with regard to facilities:

(...) Furthermore, the location of facilities shall be determined in accordance with the needs analyses carried out by the Urban Development Plan [Stadtentwicklungsplanung] within the framework of local sectoral planning, and is guaranteed by means of binding planning figures.

With regard to this, two Urban Development Plans (STEP) are to be drafted:

**STEP 1: Public facilities - Provision of school and sports facilities;**

**STEP 2: Public facilities - Provision of social and cultural facilities, and facilities relating to residential use.**

These plans will identify **specific needs** for pre-established areas **with regard to facilities and the timeframe for their execution** on the basis of **an analysis of existing deficits, and structural proposals will be made to meet these requirements**.

To complement this there will be a graphic representation of the location of social infrastructure facilities (schools and sports areas, social and cultural facilities, and facilities related to residential use) on a map of the entire municipality.

[pp. 143 and 144 *Erläuterungsbericht*. 7. PUBLIC FACILITIES. 7.1 Introductory note ]

The contents of STEP 1 and 2 cover almost all social infrastructures, although it seems that some areas, such as health or social care for example, are not included.

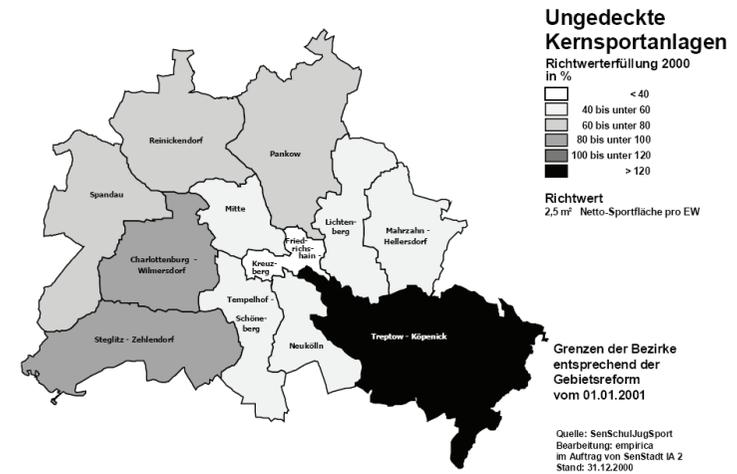
The existence of *sectoral plans for facilities* implies a return process towards the FNP, as this - in its updates and modifications - must include the prescriptions of sectoral plans. Therefore, the STEP must respect the bases and proposals of the - already approved - FNP when designing the corresponding programme for the sector.

The *eighth principle* governing public facilities clarifies the scope of the STEP and their applicability:

*Eighth principle*

The forecasting and funding of social infrastructure facilities are a pre-requisite for the effective application of educational, social and health policies free from obstructions. Given that - due to its system of representation - the FNP can only partially satisfy these demands, municipal Urban Development Plans (*Stadtentwicklungspläne*) and Location Plans (*Standortpläne*) are also drafted. **The sectoral development planning phase will address the redefining, extension and modification of public facility locations. These plans shall be made binding with the *Bebauungspläne*.**

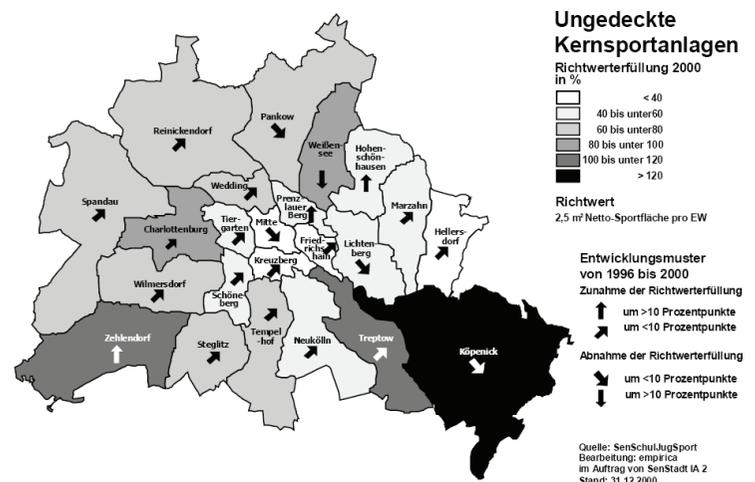
[pp. 144 and 145 *Erläuterungsbericht*. 7. PUBLIC FACILITIES. 7.2 Principles]



Images source:

Sports Department (SensSchulJugSport) by EMPIRICA. Situation of the non-covered areas related to legal values (2000).

Sports Department (SensSchulJugSport) by EMPIRICA. Proposals for the non-covered areas related to legal values. (2000).



If we focus on the facilities provided for in the FNP, strictly those relating to the *city level* (over 3 Ha, according to Berlin regulations) and in the *Framework Conditions* that govern them, we find a revealing paragraph:

(...) Those relating to culture occupy, to a certain degree, a special position among public facilities. The cultural infrastructure of the city is characterised by the disparity between **supraregional central facilities - some of them international in scope - and the deficits in the provision of cultural facilities in outlying districts**. Unlike other areas, the cultural facilities sector does not have **governing values** (*Richtwerte*) that express its **quantitative need** and thereby allow a measurable correction of these deficits. Therefore, the promotion of future cultural facilities in outlying areas must be based more on a quantitative analysis of the existing offer in relation to neighbourhoods' social composition, and also on the large number, variety and vitality of existing private initiatives and groups. In line with this, it would often be possible to use existing facilities or buildings - including, in some cases, buildings of architectural heritage - susceptible to changes in use, so that the location of new facilities would not represent a problem from a strictly physical viewpoint. Thus, the FNP may considerably increase the provision of cultural facilities in outlying areas.  

[p. 148 Erläuterungsbericht 7.4 Higher level facilities. 7.4.1 Framework conditions]

There is mention of the use of *governing values* for quantifying most facilities, with the exception of cultural facilities. In order to determine the significance of these values, let us move to the sections on facilities that have the potential to receive governing values.

The *framework conditions* governing **school facilities** record the use of **town planning and sectoral governing values** for the planning of the school network. They forecast the need for 80 more schools by 2010. From this we are able to make two initial observations, the first is the applicability - when the FNP was drafted - of some type of sectoral plan for schools with 15-year timeframes (1994-2010); and secondly, **where we find the difference between town planning and sectoral governing values**, the latter introducing complexity into the still unknown question of governing values in German planning.

(...) According to the **town planning and sectoral governing values** employed for the **planning of the school network** "Guideline framework - Schools" (*Orientierungsrahmen - Schulen*), the potential growth of the population by 2010, estimated at 300,000 inhabitants, **would in theory require 80 more schools in the city**. Within the framework of planning the school network and school development, it would be necessary to compare this demand with the evolution of real needs with regard to existing schools. These real needs are closely linked to the generative behaviour (demographic) of the population, in particular in the eastern sector, and also general structural change in the city.  

[p. 151 Erläuterungsbericht: 7.5 Schools. 7.5.1 Framework conditions]

STEP 1 and 2 supersede sectoral planning in various areas, which already includes the 1994 FNP:

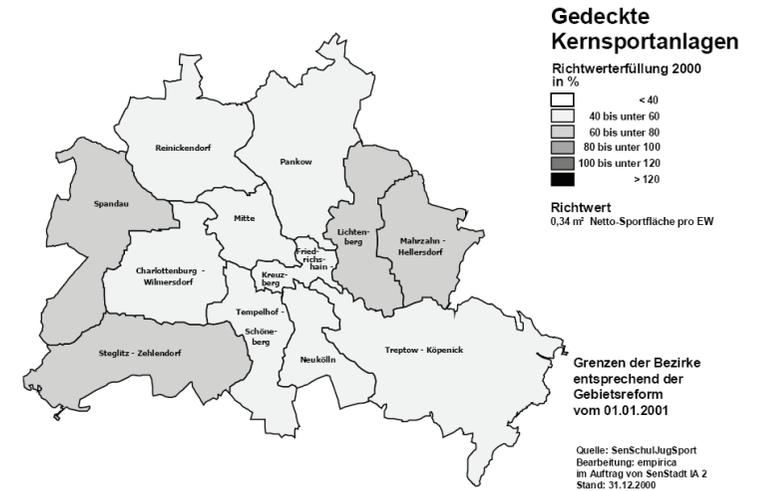
"(...) The FNP contains both **the representation of existing scholar buidings, and the agreed planning forecasts**. The location of schools in outlying areas will be determined according to changes in demographics, by means of urban transformation operations, the densification of low-density residential areas and city growth. It is not yet possible to know the exact sites for these facilities today; **for the time being the symbols employed in the graphic representation simply correspond to detected needs**. The definitive sites can be established in later stages of specification, at other levels of planning. **In parallel to the FNP, instruments will be drafted to cover the municipal area - the Urban Development Plan STEP 1 "Public facilities - Provision of school and sports facilities"**, as will other Location plans, which shall serve as a basis for all future plans in this area."  

[p. 151 Erläuterungsbericht: 7.5 Schools. 7.5.2 Planning]

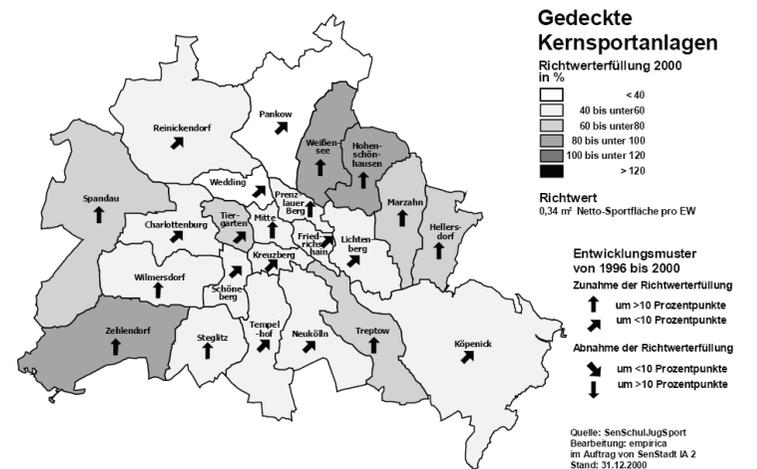
With regard to **sports facilities**, the sectoral plan in force when the FNP was drafted, the 1989 *Sports Installations Development Plan*, makes forecasts which, by contrast with the situation in 1994, translate into deficits.

Once again, the reference point for **forecasting requirements for outdoor and indoor installations is the governing value**.

According to the *Land of Berlin's Sports Promotion Act*, all people must be have the guaranteed opportunity to "engage freely in sport, whether or not they are a member of an organisation, in accordance with their own abilities and interests." Provision must be guaranteed that is adapted to the needs of the population in both the planning phase and in the construction of public sports installations and public promotion, ensuring a balanced distribution among the different districts. With *Sports Installations Development Plan A* (part II) (*Sportanlagenentwicklungsplan A, Teil II*), approved by the Senate Resolution of 10.01.1989, the following **governing values** were determined:



Images source:  
 Sports Department (SensSchulJugSport) by EMPIRICA. Situation of the covered areas related to legal values (2000).  
 Sports Department (SensSchulJugSport) by EMPIRICA. Proposals for the covered areas related to legal values. (2000).



### Conceptual area plans, *binding informal plans*

Drafted above all for parts of the city that are subject to intense change, that is, the northeast periphery and the areas along the Spree and Havel rivers to the west.

They address the intentions of the F-plan, questioning the locations and zoning it proposes; they coordinate the aims of the plans in reference to the area studied.

Although they do not enjoy formal status, there are - after their acceptance by the Senate - binding. They must be taken into account by the *development plans, BNP*.

Another type of informal plan is that currently being prepared for small areas of the city. They are the counterpoint to local planning policies, serving as a basis for the local development plans.

### The Landscape Programme, preservation of free spaces and the environment and compensation for the adverse effects of planning

The land development plan has as its foundation a framework relating to landscape and the environment which must be used as a basis and respected. The "Landscape Programme", or *Landschaft- und Artenschutzprogramm (LaPro)*, formulates policies and objectives for the environmental protection and improvement of the natural landscape and is updated continuously.

The programme can lead to the modification of uses and densities established by the FNP.

The programme is based on the "Federal Nature Protection Act" Bundesnaturschutzgesetz (*BnatSchG*)

The programme is based on four key elements:

A "Nature Preservation" strategy, defining those areas which are particularly sensitive and of value, as well as areas with prioritised protection due to their land and water conditions.

"Ecosystem conservation" policies, a series of proposals for the biotops and the environmental improvement of conditions for plants and animals.

"Landscape Scenarios", intended to preserve and improve the specific qualities of natural and urban landscapes.

Policies for "recreation and the use of free space"

The FNP proposes a dense network of free space, large green spaces linked together by green corridors that mostly follow the city's watercourses.

An inner ring can clearly be distinguished, containing parks, leisure areas...along with an outer ring - under construction, together with Brandenburg - basically comprising regional parks. They are linked together by green corridors which, as well as ensuring biological continuity, also improve accessibility for the user.

The land development plan makes economic use of land by recycling land in disuse and increasing density in existing areas wherever possible, reducing environmental problems deriving from excessive land development (transport, loss of value of public space...)

Only a compact city can offer short distances and attractive and solvent public transport, making efficient use of its human and technical infrastructure.

There will be **effects of urban development that cannot be completely avoided**. To compensate for the adverse effects on nature and the landscape, and **environmental compensation strategy** has been conceived for the whole city (as mentioned in the previous section).

It is rare to be able to implement ecological compensation within the sector where the

damage is being caused. Due to this fact, the strategy is extended to cover the whole city: if adverse impacts cannot be compensated locally, then compensation will be aimed at "priority areas", a total of 43 grouped below according to:

*Level 1 priority* applies to compensatory measures that may be carried out in the inner city under the premises of interior development, improving recreation and improving free spaces, thereby improving inner-city living conditions.

Compensatory measures that contribute to the construction and development of "Barnim Regional Park", located in the north-east of the outer Berlin-Brandenburg ring, have *Level 2 priority*.

The *Level 3 priority* is awarded to the areas comprising the "green cross" of corridors that unite the free spaces of the inner ring to the outer ring.



## from the regulatory excess of Catalonia to the necessary regulatory force of the German plans

Of the questions presented until now within the framework of the two countries comprising our analysis, it would seem that despite differences in practically all aspects, **one common need does stand out: the search for effective regulation of the public sector.**

Until very recently we were able to label Spain a *free market economy open to entrepreneurial decision-making*, and by the same simplistic and slogan-driven logic, Germany an *exemplary public agent*.

As is happening with the seasons of the year, whereby the winters become milder and confused with spring in a homogenising trend that shies away from extremes, so is happening with governments, the common tone is increasingly more *centrist, more globalising*.

In general terms, the left wing extends to be more interventionist, although dictatorships (left or right-wing) have also been - not believing in the market and affecting it in other ways.

To sum up the current situation, we could say that the **centre-left emphasises the errors of the market left to freewill with regard to collective interests**, whilst the **liberal conservative highlights the value of the public sector as a regulator**.

Thus, Spain, and **Catalonia, in a more than likely problem of excess regulation**, start with a legal and bureaucratic simplification, especially in the business world. And this is surely the case due to the insistence of bodies such as the Chamber of Commerce and Promotion of Work, where report after report strains to highlight an excessive economic load for companies to comply with the existing regulations.

In Catalonia, various different governments come together in a kind of *cacophony* of authority; all of them with their own regulations, which often do not coincide, and yet must be complied with. The business sector is crying out for effective, but few, regulations.

The fact is that **governing represents costs, for companies but also for governments**. The problem arrives when a process of deregulation is initiated in a country such as this one - of private leadership and tradition - without substitute measures to the norm

We do not have to go back very far to remember the period 1996 to 2002, when the liberal philosophy of the PP (Spain's ruling right-wing party) led to the introduction of a series of *deregulating* measures with regard to land, very enticing for the private sector, resulting in a *plundering* of land and the terrible consequences that this provoked.

Governments cannot give *carte blanche* to the private sector without having at least one ace up the sleeve of the public jacket.

And this is where we find Spain and Catalonia today, ever with a cry in their heart that certain laws not be "touched" for fear this could have irreparable collective consequences. **We cannot relax the laws regarding collective assets.**

**Germany, from the other extreme**, of Europe and also of government, is increasingly approaching **the need for a minimally regulatory centrist model**.

The previously mentioned economic exhaustion of public agencies has led to the greater participation of the private agent, who needs and will need government regulation. In these matters, this federal country has certain advantages, such as the unlikelihood of regulations being duplicated between different levels and of finding contradictions, this being a frequent problem for parafederal countries or countries with autonomous regions, such as ours.

In order to demonstrate the role of the public sector in cities, we will analyse three projects being implemented in *development areas* in the city of Berlin. We would like to observe the extent to which the public sector is present, its distribution...in a state where minimum surrenders of land are not regulated.

We have already seen how neither the *BauGB, the Town and Country Planning Code*, nor the *BauNVO, the German Building Code*, establish any type of regulation in this respect.

The *BauGB* requires a certain surrender per each instance of *building profit* in a process similar to our redistribution (between 10% and 30%); this is similar to the mean plot development profit the Catalan or Spanish government would receive.

The obtaining of public space is therefore mainly achieved through expropriation, the owners assuming 90% of the costs. The government will pay the remaining 10%, although also from a more privileged position in economic terms due to the fact that it has the money to do so, with 50% of the municipal budget covered by the *Land* and the *Bund*.

In Catalonia the town council will receive public land in the form of a free surrender, with no costs attached. It is also true that local bodies receive from the *Land* and the *Bund* - Central Government and Autonomous Regional Government - an amount no greater than 23%. An economic shortfall that makes it impossible for them to carry out *entrepreneurial public initiatives*.

Furthermore, **the BauNVO**, more visible in the development plans (BNP), establishes some general uses, and some minor uses, allowing the accommodation of some types of public infrastructure or others depending on the use to which they are put, **with no establishing of minimum facilities**.

**Here in Catalonia** we qualify according to the plan in question; **we will delimit the public and the private with greater or lesser precision**, with a similar weight in terms of permitted use, but not in terms of buying and selling land. The latter is an issue we shall leave to one side.

**Thus, town councils and Gemeinde are not so different**, siblings from a different father, **and we must observe how they differ or resemble one another genetically**.

### Surrenders in Catalonia, inversely proportional

In order to analyse surrenders in Catalonia, we have produced a comparison of how the law is applied in different scenarios.

Given the existence of a legal framework, working with it allows us to cover all real possibilities, obtaining a maximum range of results.

On the basis of the overview table for the *Town Planning Act* (presented previously in the legal comparison of the two countries), we have established three theoretical scenarios, testing the variable of total roof area of the operation. In this respect, we must remember that green space and facilities are surrendered according to total roof area in m<sup>2</sup> (in a proportion of 20 to 100), with a minimum of 10% and 5% of the surface area of the sector, respectively.

The Town Planning Act establishes two determining limitations, the first referring to the minimum portion of public space in new development sectors, which is set at 45% of the total land in the sector.

The second is a limitation on densities, with a maximum of 100 residences per Ha., whatever the size.

for outdoor installations, 2.5 m2 of usable sports area (basic net sports surface area (Netto-Kernsportfläche) per resident).

for indoor installations, 0.35 m2 of usable indoor sports area (basic net sports surface area (Netto-Kernsportfläche) per resident).

These governing values are also used as a reference to estimate the provision of sports facilities in the eastern sector of the city (the aforementioned Senate Resolution, prior to November 1989, will only have referred to West Berlin).

(...)

With regard to outdoor installations, the Land of Berlin has an average of 1.4 m2/resident; this therefore fulfils only 56% of the governing value of 2.5 m2/resident, which translates in numerical terms into a deficit of 375 Ha of "basic net sports surface area". On average, we can state that in terms of quantity the standard provision is considerably higher in western districts than in the eastern sector. The deficits are concentrated in the central districts and the three new districts at the eastern end of the city, where there is little more than 1m2/residents of sports area.

With regard to indoor installations, the Land of Berlin has an average of 0.14 m2/resident of indoor sports area; this therefore fulfils only 40% of the governing value of 0.35 m2/resident, which translates in numerical terms into a deficit of 700,000 m2 of indoor sports area. On average, we can state that in terms of quantity the standard provision is slightly lower in western districts than in the eastern sector. The districts with the largest amount of sports area are Weißensee (57% of the governing value), Tiergarten (48%), and Zehlendorf (47%); those with the greatest deficits are Wedding (34%), Neukölln (30%) and Wilmersdorf (25%).

In addition to differences in terms of quantity, there are also notable contrasts with regard to the quality of existing installations. The standard of these facilities and therefore their degree of usability is generally inferior in the eastern sector of the city. This compensates for the slight inferiority of the western districts in terms of quantity.

According to the Sports Promotion Act "sports installations are to be constructed in such a way as to make them suitable for competition". In respect of this, the Development Plan for Sports Areas in West Berlin (Sportanlagenentwicklungsplan für Westberlin) highlights an important deficit with regard to these types of installations, both indoor and outdoor. The same can be said to a good degree of East Berlin.

In recent years, the number of new people taking up sports activities has grown in proportion to the number of residents, in terms of both organised and unorganised sports activities. It would also seem that this trend will be maintained in the future. This will mean not only greater pressure on existing installations, but also an increase in the so-called "opportunities" to engage in sports activities (Sportgelegenheiten).

Leaving to one side the detected deficits, the demand for new installations will also increase in line with population growth. With an increase of up to 300,000 residents - according to the FNP estimates - and in accordance with the aforementioned governing values, 75 Ha of usable sports area would be required in outdoor installations (125 Ha, if we include buffer areas, organizational and subordinate functional areas), and 100,000 m2 of indoor installations.

[pp. 152-154 Erläuterungsbericht. 7.6 Sport. 7.6.1 Framework conditions]

On the basis of sectoral planning for sports facilities decisions are taken that illustrate the scope of sectoral plans and the land development plan .

The FNP assumes, unilaterally and in light of the city's physical limitations, the inability to fulfil the sports installations requirements established in the 1989 sectoral plan. With the knowledge of all sector needs, in its prioritising role the FNP will reserve the maximum number of sports facilities within the possibilities of the plan.

Let us incorporate a new variable into the study: sectoral resolutions are not always directly translatable into the urban development reality of the land development plan, and neither are the sectoral governing values. Will, then, the values arising from the most possibilist option

(the FNP) be the so-called town planning governing values?

In addition, we also find the existence of a Sports Promotion Act, although we do not yet know whether this is an Act that accompanies the sectoral plan or precedes it.

(...) Given the limited availability of suitable land around Berlin, it is forecast that demand will not be 100% satisfied - measured according to the aforementioned governing values - with the forecasts of the FNP and any that may be considered in the plan deriving from it.

According to the growth estimates of the FNP, and counting both existing sports installations and the total number of future installations considered at all levels of planning, there is still a deficit of some 270 Ha (30% of the governing value) with regard to outdoor installations. As far as indoor installations are concerned, the deficit will be some 1000 sports hall units (Hallenteile) - 35% of the governing value - which translates into 300 new sports halls if we take into account the average size of these in Berlin nowadays.

[pp. 155 and 157 Erläuterungsbericht, respectively. 7.6 Sport. 7.6.2 Planning]

Social facilities are included in the content of STEP2, as this addresses the provision of social and cultural facilities and facilities related to residential use.

In the FNP, in the section Facilities related to residential use, we find references to children's nurseries, the Children's Nurseries Act providing reference values.

For public play areas we find a plan and an Act, the latter establishing the governing values.

According to the Act for Restructuring Youth and Infant Assistance - Act for Youth and Infant Assistance - (Gesetz zur Neuordnung des Kinder- und Jugendhilferechts), the agents responsible for protecting these groups are obliged, in an appropriate time and manner, and in accordance with educational directives, to make those facilities available that are required for fulfilment of the objectives established by the Act. In accordance with the responsibility they have with regard to planning, these agents must:

make an inventory of existing facilities and services;

meet the medium-term needs of young people and dependent people, in relation to their desires, demands and interests; and

plan sufficiently in advance and with sufficient content suitable procedures for satisfying these needs; it should also be possible to attend to any other unanticipated demand.

According to § 1.5 BauGB, the design of the plan must attend to the social and cultural needs of the population - in particular families and young people - as well as the interests inherent in the teaching, leisure time and rest of these groups.

If we take into account the FNP's system of representation, it does not reflect facilities more closely linked to residential use, such as children's nurseries, children's play areas and installations for youth leisure.

These may be "developed" [sic] in later stages of planning, taking as a basis any areas that may be more suitable and areas represented as green spaces. In parallel to the FNP, instruments will be drafted to cover the municipal area - the Urban Development Plan STEP 2 "Public facilities - Provision of social and cultural facilities, and facilities related to residential use", as will other Location plans, which shall serve as a basis for all future plans in this area.

#### 7.7.1 Children's nurseries

The German Parliament has agreed a modification to § 24 of Social Security Code VIII (Sozialgesetzbuch VIII) with regard to the Act for Maternity and Family Support (Schwangeren- und Familienhilfegesetz).

According to § 1.1 of the Act, all children have the right to attend a children's nursery from the age of three and until they start school; the Land of Berlin is obliged to guarantee this right until 1st January 1996. For children under three and of school age there must be made available, according to demand, places in day centres and - depending on the requirements of the child's well-being - care centres (Tageseinrichtungen and Tagespflegeplätze, respectively).

The Senate considers assistance for 70% of all children between the ages of 0 and 9 sufficient as a barometer by which to measure the need for children's nurseries. The calculation of this planning value (Planungswert) has taken into account both the aforementioned legal right and the evolution of care facilities available - according to needs - for infants under three and children of school age. Proximity to the home and easy accessibility are factors that to a great extent determine the location of children's nurseries. Also of relevance is the possibility of coordinating these with the respective primary schools; for

this reason, the zone of influence of these primary schools is used as a basis when quantifying the required nursery schools.

#### 7.7.2 Public children's play areas

(...) The Land of Berlin's **Children's Play Areas Act** (*Kinderspielplatzgesetz*) contains various resolutions regarding the quantity and planning of these installations. A **governing value** is established of **1m<sup>2</sup> of public play area / resident**. Taking into account the population of Berlin as of 30.6.1993, there was a **level of provision of 39% in the eastern districts and 50% in the western (total for Berlin: 46%)**. A greater deficit is found in more populated neighbourhoods - with fewer private play areas, gardens or green spaces - than in the outlying districts, where it is also possible to play in private gardens or other free spaces.

The **Play Area Development Plan** (*Spielplatzentwicklungsplan*) includes proposals to reduce the current deficit through the construction of new installations.

#### 7.7.3 Youth facilities

Youth facilities are installations that offer children and young people stimuli and initiatives to design their own leisure time, combat consumerism and experience an opportunity for participation and autonomy in decision-making processes. The opportunities offered are based on the principle of free participation. The concept of **youth facilities covers a wide range of installations, including youth centres, youth clubs, recreation areas, pedagogical play areas and camps**, as well as other places to gather.

If we take as a basis the **governing value of 128 places for every 10,000 residents** we find - as of 31.12.1992 - a **level of provision of 67% for districts in the west and 55% in the east** (where there are still a considerable number of property disputes with regard to certain plots of land), with a total average for the city of 63%. This calculation does not take into account camp facilities, pedagogical play areas and private installations. It is necessary to design a new **governing value** to quantify current stocks and the future needs for private facilities to cover youth leisure requirements. [pp. 157-159 *Erläuterungsbericht. 7.7 Facilities related to residential use*]

Following careful perusal of the *Erläuterungsbericht*, we find a series of questions that we will attempt to clarify, firstly **the difference existing between town planning governing values and sectoral governing values; where they come from: from manuals, experience, department proposals,....; and lastly the role of Acts: do they introduce the values, or simply list them?**

## **governing values (RW) and guiding values (OW) in the planning of facilities in Germany**

First of all, and to provide a certain contrast with the information obtained for Berlin, let us look at a couple of *Erläuterungsbericht* for smaller municipalities in another German state.

The municipality of Burscheid in the state of Nordrhein-Westfalen, situated between Düsseldorf and Cologne and with 19,000 inhabitants, employs governing values to forecast its facilities requirements.

The *Erläuterungsbericht* of the this municipality's FNP provides governing values for what is called "basic infrastructure", *basic Infrastruktur*, that is, sports areas, play areas, "allotments" (very prized *national asset*) and cemeteries.

For sports areas they employ a governing value of 4.2 m<sup>2</sup> land/res. By contrast with Berlin, there is express mention of a source for obtaining governing values for sports, *Deutsche Olympische Gesellschaft(Hrsg.), Richtlinien für die Schaffung von Erholungs-Sport- und Spielanlagen, Frankfurt/M. 1976*

There is a deficit of 42% when compared to the real situation. It is calculated that there is a need for 3,000 more m<sup>2</sup> of land for sports uses.

They also highlight the need to draft a *Sports Facilities Plan* to make more accurate forecasts. (p. 43 *Erläuterungsbericht. Stadt Burscheid*).

Together with play areas, they must be located within the municipal township, at a reasonable distance from residential areas, and must be accessible and safe.

With regard to play areas, there is a State directive that provides governing values according to population density. For low density municipalities, as is the case here, a value of 2.4m<sup>2</sup> of facilities per resident is established. Thus, 46,000 m<sup>2</sup> of play areas are required for the 19,000 residents. Taking growth forecasts into account some 50,000m<sup>2</sup> of play area would be required. The data source in this case is the directive itself, *Der Innenminister des Landes Nordrhein-Westfalen, Bauleitplanung, Hinweise für die Planung von Spielflächen, RdErl. vom 31.7.74*

Under basic infrastructure we also find allotments (*kleingärten*). In Germany, allotments are considered a *national asset* and there is even a Federal Act for the *defence and promotion of allotments*.

Two methods are presented for calculating the need for this facility: the first is according to "number of residents", and the second according to "demand". In the first method, the ratio of 5m<sup>2</sup> of allotment/resident is employed. With a population forecast at 20,700 residents by 2010, this means a total of 10 Ha. of allotments, or 260 allotments of 400m<sup>2</sup>.

For the calculation according to "demand", the governing values produced by the Institute for the Development of the City are used as a reference, a body accountable to the Ministry for Construction. *I/Institut für Landes -und Stadtentwicklungsforschung und Bauwesen (ILS), Ministerium für Bauen und Verkehr des Landes Nordrhein-Westfalen.*

It is estimated that 65% of homes should be able to enjoy a private free area (allotment). On the basis of this ratio, it is believed that there is a shortage of 112, or 10% of the current total. Demand is situated at somewhere between 110 and 160 allotments of an estimated size of 200m<sup>2</sup>, totalling between 4 and 4.4 Ha.

With regard to cemeteries the value is 12m<sup>2</sup> per grave (no source provided). This would mean a current shortfall of 9.8 Ha. The current cemetery is 4.6 Ha in size, which could be extended up to 10 Ha, meaning that there is no need for the provision of more land. For school and transport facilities reference is made to sectoral plans.

We would like to analyse one further case, Wuppertal, a city of 300,000 inhabitants located near Burscheid and in the same state.

Despite it being a large municipality, the *Erläuterungsbericht* is very brief with regard to governing values, they are only provided for green spaces.

For the *national allotment*, the minimum values proposed by federal law are exceeded, reaching the proportion of 12.2/res. (note 2 on the attached table). Note 4 on the same table gives a recommendable size of 500m<sup>2</sup>. (much more generous than in the previous case)

With regard to children's play areas, there exists a municipal document, updated in 2002, and drafted on the basis of the 1974 State directive (mentioned previously), which establishes a value of between 2.4 and 4.5 m<sup>2</sup> per resident for every neighbourhood, depending on population and building density.

There are no governing values for the calculation of green infrastructure, parks and gardens; these are planned according to *history, topography and tradition*.

With the study of these two municipalities new paths are opened to continue our selection of governing values, with the appearance of directives, reference publications, bodies and institutions. We shall begin by searching the latter, as they seem to be the most common and the most well-defined.

If we consult the website of the *ILS Institut für Landes- und Stadtentwicklungsforschung und Bauwesen* (the source of the parameters employed for calculating the *basic Infrastruktur* of the municipality of Burscheid), we discover an in-depth study for the measuring of facilities and calculation of surface areas required. (Study conducted in collaboration with Karlsruhe University)

In the ILS-Karlsruhe University report, facilities (always referred to as *Wohnfolgeanlagen*) are exposed to the needs and desires - often contradictory - of potential users and their managers.

In order to plan facilities that meet real needs, it is important that along with proposals for the size of future installations, existing facilities are studied and evaluated.

**The starting point for measuring facilities is the number of inhabitants**, and these will be weighted using statistical and other data deriving from future forecasts.

The steps employed for the correct measuring of collective assets are:

1. **Demarcation** of the facility's **sphere of influence**
2. Number of residents in the sphere of influence
3. **Residents able to use the facility**, according to age, wealth, training, availability of own vehicle, etc...
4. **Potential users** included in the above, according to interests, time availability, alternative offers, etc...
5. **Effective users**, according to price, weather conditions, other facilities available, etc...  
Demarcation of the facility's *real* sphere of influence
6. Frequency and duration of use
7. Simultaneous users and profile (age, economic means, etc...)
8. **Surface area required / effective user**

Translated into a mathematical measuring formulas:

Number of users in a specified period (year, month, or other)

$$Br = \sum Jg_i \cdot Jgst_i / 100 \cdot QBr / 100 \cdot E$$

## FLÄCHENBILANZ

### Flächenaufteilung Flächennutzungsplan Stadt Burscheid 1978 und 2003:

Art der Nutzung	Stand:		1978		2003	
	ha	%	ha	%	ha	%
Mischgebiete (neu: MK + MI)	64,9	2,4	82,9	3,0		
Dorfgebiete	18,4	0,7	23,5	0,9		
Wohnbauflächen	273	10,0	323,4	11,8		
Gewerbegebiete	72,2	2,6	105,7	3,9		
Industriegebiete	9,1	0,3	26,6	1,0		
Sonderbauflächen	13,3	0,5	17,9	0,7		
Gemeinbedarfsflächen	11,6	0,4	16,7	0,6		
Ver- und Entsorgungsanlagen	4,7	0,2	4,1	0,2		
örtliche Hauptverkehrsstraßen	11,1	0,4	12,0	0,4		
Autobahnen	27,2	1,0	27,2	1,0		
überörtliche Straßen	44,2	1,6	44,1	1,6		
Bahnanlagen	21,5	0,8	19,9	0,7		
Böschungen an Autobahnen	22,5	0,8	22,5	0,8		
Grünflächen	74,3	2,7	79,6	2,9		
Flächen für die Landwirtschaft	1.387,5	50,8	1.229,4	45,0		
Waldflächen	677,6	24,8	661,4	24,2		
Maßnahmenflächen <sup>24</sup>	-	-	36,2	1,3		
<b>Gesamtfläche</b>	<b>2.733,1</b>	<b>100,0</b>	<b>2.733,1</b>	<b>100,0</b>		

#### Verhältnis von Siedlungs- und Freiflächen

Der Freiflächenanteil am gesamten Stadtgebiet (Böschungen an Autobahnen, Grünflächen, Flächen für die Landwirtschaft, Waldflächen, Maßnahmenflächen) sank von 79,1 % (1978) auf 74,2 % (2003).

Table source:

*Erläuterungsbericht zum FNP Stadt Burscheid.. Norhein-Westfalen pp. 127. Facility needs by type*

Table source:

*Erläuterungsbericht zum FNP Stadt Wuppertal.. Norhein-Westfalen pp. 52. 'Kleingärten' needs, by districts*

Tab. 23: Bedarf und Planung von Kleingartenanlagen

Stadtbezirk	Bevölkerung 2015 <sup>(1)</sup>	Bedarf <sup>(2)</sup> Richtwert in ha	Bestand an Kleingärten <sup>(3)</sup>		Fehlbedarf bzw. Überhang <sup>(4)</sup>		geplante Kleingärten <sup>(5)</sup>	
			in ha	Gärten	in ha	Gärten	ha	Anz.
Elberfeld	61.975	74,3	53,7	1.152	-20,6	-413	2,8	56
Elberf.-West	27.624	33,1	10,6	216	-22,5	-452		
Uel.-Katembg.	35.501	42,6	57,2	1.446	+14,5	+292	8,1	162
Vohwinkel	31.246	37,4	45,5	805	+8,0	+160	3,4	68
Cronenberg	21.007	25,2	2,5	67	-22,7	-454	6,7	134
Barmen	56.648	67,9	114,7	2.468	+46,7	+934	1,6	32
Oberbarmen	41.023	49,2	40,0	1.003	-9,2	-185		
Heckinghausen	20.175	24,2	8,4	207	-15,7	-315		
Langerf.-Bey.	23.905	28,6	19,4	513	-9,2	-186		
Ronsdorf	20.902	25,0	3,6	109	-21,3	-428	3,0	60
Wuppertal	340.006	407,5	355,6	7.986	-51,8	-1.036	25,6	512

(Stand: Fortschreibung Kleingärten 2000)

(1): Bevölkerungsprognose der Stadt Wuppertal 2001 – 2015 (vgl. Kap. 2.6)

(2): Bedarf bei einem Richtwert von 12 m<sup>2</sup>/Einwohner

(3): Bestand an Kleingärten: Fortschreibung Kleingärten 2000

(4): Bestand abzüglich Bedarfsrichtwert ergibt Flächenwert. Rechnerische Anzahl der Gärten bei 500m<sup>2</sup>/Kleingarten

(5): inkl. rechtskräftige B-Pläne und B-Pläne im Verfahren

Number of visits

$$Be = Br \cdot Bh$$

Number of users present at the same time

$$Brgla = f \cdot (Br, Bh)$$

Surface area required

$$FB = Brgla \cdot fB, Br, on$$

Br	Users (persons)
Be	Visits (subject, interest)
Bh	Frequency of visit (per year, month, etc...)
Brgla	Users present at the same time
E	Inhabitants
fB, Br	Surface area / user
Jgi	Proportion of more "relevant/frequented" periods
Jgsti	Mean period
QBr	Proportion of users (% Br / inhabitant)

The information provided by the ILS very much insists on the fact that facilities have very specific spheres of influence, and that their amount cannot be calculated solely on the basis of the number of inhabitants in the area in question. It must always be weighted, taking into account:

1. Residents in the sphere of influence
2. Proportion of residents who are users
3. Frequency and duration of use
4. Simultaneous users
5. Surface area required / user present

Thus, we are warned that the values provided are *guidelines*, merely aimed at helping with the calculation of the number and size of facilities and services, and the amount of surface area to be allocated to them. Their correct use would be as what is called "accessory support modules", due to the fact that they depend to a large extent on the socio-political circumstances and methods of the times, to which requirements forecasts must then be adjusted.

The set of guideline values provided by the ISL is summarised in the following table. For those for which (due to their characteristics) a specific value cannot be provided, recommendations and guidelines are given.

In the information consulted we find references to a project called *Nafaweb*, which focuses on **determining and updating governing and guideline values, Richtwerte (RW) and Orientierungswerte (OW)**, for basic infrastructure.

The project *Naturschutz-Fachinformationen im World Wide Web (NafaWeb)* is accountable to the *Land of Baden-Württemberg*, and carried out by the *Forschungszentrum Karlsruhe i la Ingenieurgesellschaft für Umwelttechnik und Bauwesen* (Karlsruhe Research Centre and Society for Civil Engineering, Environment and Technology), under the supervision of Dr. Eisele.

It is clear that Karlsruhe is basically where the research for and production of planning values takes place.

Firstly, **OW are defined as guideline values drawn from experience and RW as governing values established by the government and present in its regulations.**

Although they are defined according to different sources, they are always presented together.

Facility and free spaces	Study recommendations / Values
Children's nursery	Social profile and age. Social policy. /Min. 1500 m2
Primary school	Social profile and age. Social policy. /Min. 1.2 Ha
<i>Hauptschule</i>	Social profile and age. Social policy. /1.8 Ha
<i>Realschule</i>	Social profile and age. Social policy. /1 Ha
Secondary school	Social profile and age. Social policy. /0.8 Ha
Special school	Type of school. Sphere of influence. /Min. 0.3 Ha
Vocational training school	Type of school. /Min. 3.5 Ha
Leisure facilities for young people	Type of facility. /Min. 2000m2
Youth centres	Type of facility.
Multipurpose hall	According to type and "range" of use
Indoor pool	/0.4 – 0.7 Ha per unit
Cultural facilities	According to "Cultural policy"/
Facilities for worship and annexes	Decreasing when the population rises/
Home for the elderly	According to social profile and age; and type of home/Min 0.5 Ha
Hospital	According to type and length of stay/Min 3 Ha
Local government	According to "centrality". Decreasing when the population rises/
Disposal of waste and residues	According to action area and type of installation/
Municipal comp. (elec., water, gas)	According to supply area/
Police, fire brigade, post office	According to size of municipality/
Children's play areas	According to age profile. Density/ Max. distance 100m
Play areas	According to age profile. Density/ Max distance 400 m. 2000 m2
Play areas for young people	According to age profile. Density/ Max distance 1,000 m. Min. 5000 m2
Sports areas and annexes	According to type. Directly proportional to the no. residents/ 1.4-2.5 Ha
Outdoor pool	/2.5–3.5 Ha/unit
Allotments	According to density. /Prop. to constructibility index (GFZ). 3.5-5 Ha
Parks and green spaces	According to idiosyncrasies of local operation/
Cemetery	According to mode of burial/

It is added that the opportunity to use and convenience of using values are based on the capacity to homogenise (*Vereinheitlichung*) and allow comparison (*Vergleichbarkeit*).

As we have already seen, article 1.5 of the BauGB guarantees "ordered town planning development" (*geordnete städtebauliche Entwicklung*) and "socially just land use" (*sozialgerechte Bodennutzung*), which must materialise on both the FNP level (art. 5 BauGB) and the BBP level (art. 9 BauGB).

According to the resolutions of the NafaWeb project, **this guarantee can only be achieved through the use of RW and OW which are "legally enforced and generally recognised"**, to meet the objectives pursued through planning.

Scepticism has not yet been overcome with regard to the use of RW and OW in areas such as landscape and green space planning, although the general feeling - demonstrated by popular surveys - has changed in recent times with regard to the valuation of free spaces designed using these values.

This makes it necessary to draw together, discuss and reuse RW and OW with regard to current planning, although they are widely dispersed and difficult to find in the literature.

Having introduced the *NafaWeb* project, we now present the proposed values:

**RW, for the general green system**

The quantifying of public green space is influenced by factors such as the size and structure of the city, density, the number of tall buildings and the location of the municipality within the region, for accessibility to the surrounding green space.

Regardless of these conditioning factors a parameter is provided of **13m2 per resident**, broken down into **6m2 of local green space/res. and 7m2 of municipal green space per resident**.

Distribution is justified according to the variability and use of free time (daily or weekend) and by promoting rotation in visits to these spaces, leading to differentiated design.

It mentions a bibliographical source, from the *German Assembly of Municipalities, 1967: LENDHOLT 1967, BORCHARD 1974, Gartenbauamtsleiterkonferenz, Deutscher Städtetag and Baubehörde Hamburg.*

**RW, for children's play areas**

Regulated by the "Children's well-being" Act, *Jugendwohlfahrtgesetz (JWG)*, in force since 1961. In article 1 it mentions the FNP and BBP as instruments for forecasting the aforementioned reserves, according to art. 5 and 9 BauGB.

The 1983 Regional Construction Code, *Landesbauordnung Baden-Württemberg (LBO)*, establishes in article 10: "(...) A children's play area must be reserved for every building of more than three residences that is constructed (...). The type, size and appearance of this children's play area is determined by the number and size of the residences constructed on the land in question.

There is mention of more legislation, a Federal Act regarding children's play areas, *Gesetz über Kinderspielplätze*, from 06.05.75; the "Decree by the Home Office on children's play areas", *Erlass des Innenministeriums über Kinderspielplätze*, from 01.08.73; the regulations regarding "play areas and open spaces/bases for planning" *DIN 18 034 Spielplätze und Freiflächen zum Spielen / Planungsgrundlagen*; a government bill by the "Group of Ministers responsible for the construction, settlement and nature of States" *Mustererlass of the ARGEBAU (Arbeitsgemeinschaft der für das Bau-, Wohnungs- und Siedlungswesen zuständigen Minister der Länder)* from 14.03.86.; and finally the "Directives for the creation of rest, play and sports areas" (the Golden Plan for Municipalities), *Richtlinien für die Schaffung von Erholungs-, Spiel- und Sportanlagen* ("Der Goldene Plan für die Gemeinden), edited by the German Olympic Committee (3rd version, from 08.01.76).

These "guidelines" were recognised by the federal assemblies of municipalities and counties, and are legally enforced today.

The last *Goldener Plan Ost* dates back to 1992, the result of joint work by the Federation, the *Länder*, and sports communities. Its main precedent was the 1956 *Goldener Plan für Gesundheit, Spiel und Erholung* produced by the *Deutsche Olympische Gesellschaft - German Olympic Committee (DOG)*.

The plan includes a series of examples for the provision of sports facilities according to the number of residents in the community:

**Example 1. (for approx. 1,000 residents)**

1 large play area, min. 62x94  
 1 small play area, 22x44.  
 1 "field" for games/sports and gymnastics  
 TOTAL USEFUL SPORTS AREA APPROX: 8,500M2.

**Example 2. (for approx. 4,000 residents)**

2 large play areas, min. 62x94  
 2 small play areas, 22x44.  
 Facilities for athletics:  
 - short distance track, four lanes  
 - long and high jump facilities, connected to small games/sports areas  
 - shot putt  
 Free-time play areas, "field" for games/sports and gymnastics  
 5 tennis courts  
 TOTAL USEFUL SPORTS AREA APPROX: 24,000M2

**Example 3. (for approx. 10,000 residents)**

3 large play areas, min. 62x94  
 5 small play areas, 22x44.  
 Facilities for athletics:  
 - short distance track, six lanes  
 - 400 m track with four lanes, although only in municipalities with central functions  
 - facilities for jumping and throwing disciplines  
 Free-time play areas, "field" for games/sports and gymnastics  
 11 tennis courts  
 TOTAL USEFUL SPORTS AREA APPROX: 45,000M2

The standard *DIN 18 034 Spielplätze und Freiflächen zum Spielen / Planungsgrundlagen* establishes different types of play areas:

- sand pits: up to 6 years of age; 40-50m2 net or 60-225m2 gross surface area (DIN 18 034)
- Swings/"Robinson": 6-12 years of age; 450-800m2 net or 675-1200m2 gross surface area; max. distance 400m on foot
- Adventure/"Construction" areas
- Football pitches: min. 20x40m

	Infants up to 6	6-12 year-olds	12-18 year-olds	Adults and families
Gross surface area per resident (m²)	0.75	0.75	0.75	1.5
Size of play area Useful surface area (Net surface area m²)	40 - 150	450 - 800	=600	=1500
Gross surface area m²	0 - 225	675 - 1200	=900	=2250
Location	Within sound and visual distance of the residence	Within the residential complex itself or immediate environment	In the environs of the residential complex	Within the residential complex or immediate environment
Maximum distance on foot from residence (m)	100	400	1000	1000
Maximum radial distance on foot from residence (m)	75	300	750	750
Access	Not directly onto roads with vehicles	Not directly onto roads with vehicles	If possible, without crossing roads with heavy traffic	If possible, without crossing roads with heavy traffic

Tab. 8.1: Flächenbedarf, Größe der Spielfläche, Lage und zumutbare Entfernung (nach DIN 18 034, Ausgabe November 1971)



The study of guidelines and governing values today does not end here. We must highlight the work of Dr. **Frank Schröter**, who has dedicated his whole career to the research and updating of guideline values.

When German planners are asked for the references they use in this matter they cite Dr. Schröter from the *Technische Universität* in Braunschweig.

Schröter emphasises that **guideline values do not have legal status, and by contrast with governing values, must be understood as a series of recommended standards**. They are generally proposed by a group of experts, the *fact that they are taken into account demonstrating the quality of the planning*, according to the aforementioned professor's website. In addition to this, he emphasises the need that they be constantly updated, as their link to social occurrences makes them obsolete with the passing of time. Thus, by way of example, the minimum required distance of an infrastructure system would not be the same in 1945 as in 2001.

In order to obtain complete precision, the author introduces a **differentiation between guideline values and guideline indices**. *Indices* are taken from a corporation which is authorised in that field; for example, if we are talking about air quality, we may take the indices of the *Verein Deutscher Ingenieure*. *Values*, on the other hand, are issued by a group of expert individuals.

Schröter's main objective is the revision of the most current and accurate guideline values and indices. He uses various sources to this end.

With regard to facilities (what he calls infrastructures), he focuses solely on Borchard (whom we have seen previously), and his "summarising" work:

*BORCHARD, Klaus. Orientierungswerte für die städtebauliche Planung, ed.: Institut für Städtebau und Wohnungswesen der deutschen Akademie für Städtebau und Landesplanung München, Worksheets 1/1974, 2nd edition, Munich, 1974.*

This title would translate as "Guideline values for urban planning and design". From what we have seen thus far from our sources - and confirmed by Schröter - **Borchard would still today seem to be the reference author in the field of guideline values for facilities**.

Schröter reproduces guideline values for other areas; for example, in transport he cites the proposals of Dietmar Bosserhof, *Integration of transport in planning and spatial design*.

*BOSSERHOF, Dietmar. 'Integration von Verkehrsplanung und räumlicher Planung', Part II Abschätzung der Verkehrserzeugung durch Vorhaben der Bauleitplanung, log 42 of the collection Schriftenreihe der Hessischen Strassen- und Verkehrsverwaltung, Wiesbaden 2000. [http://www.verkehr.hessen.de/internet/nav/123/broker.jsp?uMen=99c70f1c-57b1-9601-e76c-df2d6b51cdd0hsv\\_veroeffentl.htm](http://www.verkehr.hessen.de/internet/nav/123/broker.jsp?uMen=99c70f1c-57b1-9601-e76c-df2d6b51cdd0hsv_veroeffentl.htm)*

Also the authors Burkhard Marenfeld and Ostholt Karl-Friedrich in their work *Guideline values for infrastructures in regional and State planning*:

*BURKHARD; KARL-FIEDRICH; HEINZ 'Orientierungswerte für die Infrastruktur in der Stadt- und Regionalplanung', ed.: Institut für Landes- und Stadtentwicklungsforschung des Landes Nordrhein-Westfalen (ILS), Materialien Volum 4.018, Dortmund 1978*

All other values provided basically correspond to indices and the occasional standard. As cited *indices* we find those of the *Federal Ministry for Transport*:

BMV (Bundesministerium für Verkehr), ed. "Verkehrliche Mindestanforderungen an die Regional- und Landesplanung in den neuen Bundesländern", Bonn 1995

Also those issued by the *Transport Research Society*:

FGSV (Forschungs-gesellschaft für Straßen- und Verkehrswesen), ed. *Empfehlungen für Fußgängerverkehrsanlagen* (EFA), 2002 edition. <http://www.fgsv.de/>

Finally, with regard to government Acts and Codes, he refers to the Town Planning Code issued by the *Munich Ministry for State Planning and Building Regulations* *Landeshauptstadt München, Referat für Stadtplanung und Bauordnung, ed. Grünplanung in München, April 2005 (PDF Datei 3.4 MB [www.muenchen.de/cms/prod1/.../gruenplanung\\_muenchen.pdf](http://www.muenchen.de/cms/prod1/.../gruenplanung_muenchen.pdf))*

Below is a list of the different guideline values, ordered according to subject matter. Naturally, the list is not complete, only the most relevant are provided:

**Required surface area**

Surface area allocated to production

35-50 Ha net constructible land / working population

Surface area allocated to warehousing

15-25 Ha net constructible land / working population

Surface area allocated to commerce

Wholesale commerce: 60 m<sup>2</sup> of gross floor surface area per occupant

Administration of commerces: 20 m<sup>2</sup> of gross floor surface area per occupant

Retail commerce: 30 m<sup>2</sup> of gross floor surface area per occupant

Surface area allocated to offices

22-25 m<sup>2</sup> of gross floor surface area per occupant

Surface area allocated to retail commerce

Varied offer, from 1200 m<sup>2</sup> of sales surface area

Self-service, from 700 m<sup>2</sup> of sales surface area

Table 1

Net housing densities

(Source: BMV, 1995, 33) *Federal Ministry for Transport*

Type of building	Residents/Ha	Residences/Ha <sup>1</sup>
Single-family detached residence	50-70	16-25
Small densified residence type	150-250	50-83
Medium sized buildings	220-280	73-93
Tall buildings	280-400	93-133
<sup>1</sup> = Assumption: 2.8 - 3.1 residents/residence according to analysis of new suburban residential complexes		

Table 2

Workplace densities (occupants/Ha)

(Source: BMV, 1995, 49) *Federal Ministry for Transport*

Secondary—Principal use	Production	Transport	Office services and similar
Production	30-100	20-80	50-100
Transport		15-20	
"Office" services and similar			>100

Table 3

Minimum requirements for pedestrian traffic within urban centres  
(Source: FGSV, 2002, 15) *Transport Research Society*

	Brief description / Use	Average daily traffic [vehicles/24h]	Width "at the edge" <sup>1)</sup>	Measures in case of transversal traffic <sup>2)</sup>
1	Pedestrian routes detached from the road	-	3.00 m	if roads are crossed, this should be at junctions
2	Residential pedestrian routes suitable for vehicles	< 500	Minimum width of road 4.5m	crossing areas unnecessary
3	Residential street, "open" construction Protective fence < 0.50 m Protective fence > 0.50 m	< 5000	2.10 m 2.30 m	crossing areas generally unnecessary; if required, pavement
4	"Closed" construction, low density Maximum 3 floors	< 5000	2.50 m	pavements
5	"Closed" construction, medium density 3 to 5 floors	< 5000	3.00 m	small pedestrian islands, pavements
6	Mixed residential-tertiary use medium density 3 to 5 floors	< 5000	3.30 m	small pedestrian islands, pavements partial pavement for pedestrians, pedestrian walkway
7	Mixed residential-tertiary use with outer public walkway for highly frequented passenger traffic, high density	< 5000 <10000	4.00 m 5.00 m	islands, pedestrian, walkway, if required traffic light
8	Supralocal road, low density, agricultural use	< 15000 above 15,000	3.30 m 4.00 m	islands, pedestrian, walkway, if required traffic light
9	Commercial street with shop windows, with outer public walkway for highly frequented passenger traffic	< 15000 above 15,000	5.00 m 6.00 m	central reservation: "medium", pedestrian walkway traffic light

<sup>1)</sup> If the traffic volumes provided are exceeded by more than 5,000 vehicles/24h., the verge must be widened by 1 m. If special individual or continuous elements are observed along the length of the street, widening of the verge by between 0.75 m and 2.50 m may be considered.

<sup>2)</sup> Indications provided for the arrangement of crossing points for pedestrians are valid for average values. For selection of the most suitable crossing mechanism see FGSV, 2002, 17 and following.

### Infrastructure system

#### Education

Primary schools 2,000-10,000 residents  
25 m<sup>2</sup> / pupil (play area of 41 m<sup>2</sup>)  
approx. 10 min. (700 m)

Secondary schools 10,000-50,000 residents  
25 m<sup>2</sup> / pupil (play area of 41 m<sup>2</sup>)  
approx. 15-20 min. (1.0-1.3 km.)

Secondary schools ("middle school education") 50,000-120,000 residents  
25 m<sup>2</sup> / pupil (play area of 41 m<sup>2</sup>)  
approx. 20 min. by bicycle / outer public walkway for passenger traffic (1.3 km on foot)

#### Health

Hospitals 70,000-80,000 residents  
1-1.7 m<sup>2</sup>/resident  
approx. 30 min. 20-100 km.

Chemist's/Doctor 8,000-10,000 residents

#### Doctor-resident relationship according to "spatial plan type"

(PDF file, 8 KB), from the *Kassenärztlichen Vereinigung Hessen* (<http://www.kvhessen.de/>) 'Hospitals Association'

Also see Bedarfsplanung – Planungsbereiche, Zulassungsbeschränkungen und Verhältniszahlen ([http://www.kvhessen.de/default.cfm?rID=3&m\\_id=122&d\\_id=1279&bzcheck=0](http://www.kvhessen.de/default.cfm?rID=3&m_id=122&d_id=1279&bzcheck=0))

#### Social facilities

Nursery schools 2,000-10,000 residents  
10 m<sup>2</sup> of usable play area / infant  
approx. 5 min. 300 m.

Homes for the elderly 15,000-63,000 residents  
0.45-0.53 m<sup>2</sup>/resident  
300-400 m. to central facilities / outer public walkway for passenger traffic

#### Cultural facilities

Youth centres 10,000-40,000 residents  
approx. 20 min. on foot (1 km)

#### Rest, sports and leisure facilities

Sports fields 25,000 residents  
3 m<sup>2</sup>/resident  
10 min. on foot (500 m)

Open air swimming pools 10,000-25,000 residents  
0.1 m<sup>2</sup> water surface area/resident

Indoor swimming pools ("Goldener Plan Ost" (GPO), Deutscher Sportbund, 1992)  
23 m<sup>2</sup> water surface area / 1,000 residents (for cities and communities <20,000 residents)  
10 m<sup>2</sup> water surface area / 1,000 residents (for cities with 100,000 residents or more)

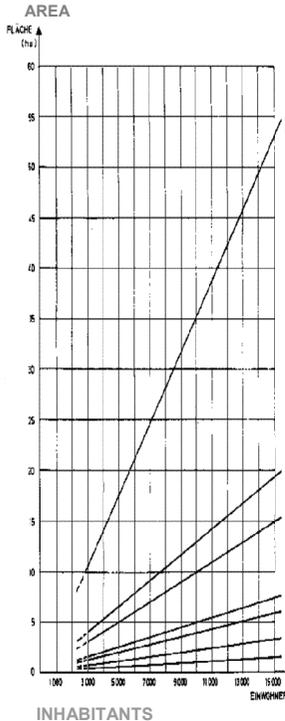
#### Administration, Institutions, Safety

Post Office 8,000-10,000 residents  
2 km. for neighbourhoods or continuous residential areas (Post-Universaldienstleistungsverordnung, PUDLV)

Police (station) 6,000-8,000 residents  
Fire station 100,000-200,000 residents

#### Retail commerce

Supermarkets (2) 8,000-10,000 residents  
Credit institutions 8000-10,000 residents



Graphic OW, proposed by Schröter  
<http://www.tu-bs.de:8080/~schroete/index.html#Rechtshinweis>

TOTAL FREE SPACES

PUBLIC GREEN

'KLEINGARTEN'

CEMETERIES

SPORTS AREAS

PLAY AREAS

SWIMMING POOLS

**Free space**

Public green spaces

e.g. general public green space (parks) in the FNP (Development Plan) 22 m<sup>2</sup>/resident  
<http://www.tu-bs.de:8080/~schroete/fnp-bs.htm>

Free spaces linked to housing

e.g. green squares, green spaces in streets, streets with play areas or areas allocated to traffic potentially usable as such.

4 m<sup>2</sup>/resident

150 m

Ex. Munich (neighbourhood provision)

Size: 0.2-1.0 Ha; minimum 4 m<sup>2</sup>/resident

250 m, 5 min. on foot

Free spaces linked to the residential area

Minimum approx. size 5 ha

6 m<sup>2</sup>/resident

10 min. on foot (300 m)

Ex. Munich

Size: 1.0-10.0 Ha; minimum 6 m<sup>2</sup>/resident

500 m, 10 min. on foot

Free spaces linked to the neighbourhood

7 m<sup>2</sup>/resident

20 min. on foot (750 m)

Ex. Munich

Size: >7-40 Ha; minimum 7 m<sup>2</sup>/resident

1,000 m, 20 min. on foot

Free spaces for the working population

Ex. Munich

2 m<sup>2</sup>/workplace

on private or public land

Play areas

Play areas in general (also for adults) in the Plan for Sports Areas/Landscape Plan

2.5 m<sup>2</sup>/resident

Distance according to DIN 18034 "Play areas and outdoor spaces for playing":

Small children (up to 6 years old) 100 m

Children (6-12 years old) 400 m

Teenagers (12-18 years old) 800 m

Adults and families 1,000 m

Elderly people 200 m

Play areas linked to the neighbourhood

0.75 m<sup>2</sup>/resident

300 m

Play areas linked to the residential area

0.75 m<sup>2</sup>/resident

750 m

"Open spaces" ("wide", "undefined" play areas)

0.75 m<sup>2</sup>/resident

750 m

Kleingärten: Richtwert 10 m<sup>2</sup>/E (BORCHARD 1974)

Einwohner	3 000	4 000	5 000	6 000	7 000	8 000	9 000	10 000	11 000	12 000	13 000	14 000	15 000
Fl.-Bedarf (ha)	3,0000	4,0000	5,0000	6,0000	7,0000	8,0000	9,0000	10,0000	11,0000	12,0000	13,0000	14,0000	15,0000

Spielplätze: Richtwert 2,25 m<sup>2</sup>/E (DIN 18 034)\*

Einwohner	3 000	4 000	5 000	6 000	7 000	8 000	9 000	10 000	11 000	12 000	13 000	14 000	15 000
Fl.-Bedarf (ha)	0,6750	0,9000	1,1250	1,3500	1,5750	1,8000	2,0250	2,2500	2,4750	2,7000	2,9250	3,1500	3,3750

Sport: Richtwert 4 m<sup>2</sup>/E (DEUTSCHE OLYMPISCHE GESELLSCHAFT III. FASSUNG 1974)

Einwohner	3 000	4 000	5 000	6 000	7 000	8 000	9 000	10 000	11 000	12 000	13 000	14 000	15 000
Fl.-Bedarf (ha)	1,2000	1,6000	2,0000	2,4000	2,8000	3,2000	3,6000	4,0000	4,4000	4,8000	5,2000	5,6000	6,0000

Friedhöfe: Richtwert 1,0 m<sup>2</sup>/E Friedhöfe, 0,1 m<sup>2</sup>/E Wasserfläche (DEUTSCHE OLYMPISCHE GESELLSCHAFT III. FASSUNG 1974)

Einwohner	3 000	4 000	5 000	6 000	7 000	8 000	9 000	10 000	11 000	12 000	13 000	14 000	15 000
Fl.-Bedarf													
Land (ha)	0,3000	0,4000	0,5000	0,6000	0,7000	0,8000	0,9000	1,0000	1,1000	1,2000	1,3000	1,4000	1,5000
Wasser (ha)	0,0300	0,0400	0,0500	0,0600	0,0700	0,0800	0,0900	0,1000	0,1100	0,1200	0,1300	0,1400	0,1500

Friedhöfe: Richtwert 5 m<sup>2</sup>/E (LENZHOFF/HERBST 1966/1967)

Einwohner	3 000	4 000	5 000	6 000	7 000	8 000	9 000	10 000	11 000	12 000	13 000	14 000	15 000
Fl.-Bedarf (ha)	1,5000	2,0000	2,5000	3,0000	3,5000	4,0000	4,5000	5,0000	5,5000	6,0000	6,5000	7,0000	7,5000

Öffentliches Grün: Richtwert 11 m<sup>2</sup>/E (DEUTSCHER STÄDTETAG, KONFERENZ DER GARTENBAUAMTSLEITER)

Einwohner	3 000	4 000	5 000	6 000	7 000	8 000	9 000	10 000	11 000	12 000	13 000	14 000	15 000
Fl.-Bedarf (ha)	3,3000	4,4000	5,5000	6,6000	7,7000	8,8000	9,9000	11,0000	12,1000	13,2000	14,3000	15,4000	16,5000

Freizeichen insgesamt

Einwohner	3 000	4 000	5 000	6 000	7 000	8 000	9 000	10 000	11 000	12 000	13 000	14 000	15 000
Fl.-Bedarf (ha)	10,6200	14,1400	17,6700	21,2100	24,7450	28,2800	31,8150	35,3500	38,8850	42,4200	45,9550	49,4900	53,0500

Table OW, proposed by Schröter  
<http://www.tu-bs.de:8080/~schroete/index.html#Rechtshinweis>

Allotments 1 allotment for every 7-10 residents (Deutscher Städtetag, 1971)  
 300-400 m<sup>2</sup>  
 18 m<sup>2</sup>/resident (according to the FNP (Development Plan) of the city of Braunschweig) <http://www.tu-bs.de:8080/~schroete/fnp-bs.htm>

### Traffic generation

**Table 4**  
**Traffic generation in residential areas (including paths for pedestrians)**

(Source: BMV.1995, 34) Federal Ministry for Transport)

Type of building	Journeys/Ha, day	Journeys/Ha, rush hour <sup>1</sup>
Single-family detached residence	165-231	26-40
Small densified residence type	495-825	79-132
Medium sized buildings	726-924	116-148
Tall buildings	924-1320	148-211

<sup>1</sup>= Number of vehicles according to building type between 30 and 40% of journeys, for a rush hour factor of 0.1 (mobility index: 3.3 paths/pers. day)

**Table 5**  
**Classification of predicted diverse uses in the categories of traffic generation in the event of predominantly passenger traffic**

(Source: BMV.1995, 25)

Traffic generation category <b>P1</b> very little passenger traffic	"Weekend residential areas", logistics departments in small companies in one storey buildings <a href="http://www.tu-bs.de:8080/~schroete/baunvo.htm#10">http://www.tu-bs.de:8080/~schroete/baunvo.htm#10</a>
Traffic generation category <b>P2</b> little passenger traffic	Residential neighbourhoods (rural), areas with repairs workshops and services with low influx of customers
Traffic generation category <b>P3</b> moderate passenger traffic	Medium-sized office and administration buildings with complementary functions and low influx of customers, "factory price" retail estates (furniture) and services with moderate influx, clinics with moderate workforce
Traffic generation category <b>P4</b> high passenger traffic	Housing buildings in "pure" or "general" residential areas, "second home housing estates", "mixed rural areas", office and administration buildings of more than one storey with >6000 m <sup>2</sup> of floor surface area/ha of total constructible land and usable surface area/central work space>20 m <sup>2</sup> , services with high influx, small and medium-sized schools <a href="http://www.tu-bs.de:8080/~schroete/baunvo.htm#4">http://www.tu-bs.de:8080/~schroete/baunvo.htm#4</a> <a href="http://www.tu-bs.de:8080/~schroete/baunvo.htm#5">http://www.tu-bs.de:8080/~schroete/baunvo.htm#5</a>
Traffic generation category <b>P5</b> very high passenger traffic	Housing buildings in "special" residential areas, office and administration buildings of more than one storey with >6000 m <sup>2</sup> of floor surface area/ha of total constructible land and usable surface area/central work space around 15 m <sup>2</sup> , services with very high influx, large commercial stores (except furniture) with moderate influx, schools of higher secondary education, non-academic training institutes, clinics with a large workforce <a href="http://www.tu-bs.de:8080/~schroete/baunvo.htm#4a">http://www.tu-bs.de:8080/~schroete/baunvo.htm#4a</a>
Traffic generation category <b>P6</b> extremely high passenger traffic	Housing buildings in "urban centres", large commercial stores (except furniture, all types) with normal influx of customers in urban centres and "special" areas of the city, other neighbourhoods, institutes and universities <a href="http://www.tu-bs.de:8080/~schroete/baunvo.htm#11">http://www.tu-bs.de:8080/~schroete/baunvo.htm#11</a> <a href="http://www.tu-bs.de:8080/~schroete/baunvo.htm#7">http://www.tu-bs.de:8080/~schroete/baunvo.htm#7</a>

<http://www.tu-bs.de:8080/~schroete/baunvo.htm>

See also Bosserhoff, 2000 and

(Verfahren zur Abschätzung der Verkehrserzeugung durch Vorhaben der Bauleitplanung - Method for estimating traffic generated from the forecasts of the Urban development plan, 100KB PDF)

**Table 6**  
**Average volume of traffic at tourism facilities according to number of visitors, distribution of journeys throughout the day and the structure of uses for means of transport**

(Source: BMV.1995, 101)

Facility	Visitors/day (average value)	Percentage of visitors that come to the facility by car (%)	Estimated car occupancy	Car journeys / day	Car journeys / hour or rush hour	Cars/ha, => traffic generation category	Distribution throughout the day
Stadium (35,000 spaces)	15600	100 80 50 20	1,5	20800 16640 10400 4160	10400 8320 5200 2080	5200=>VI 4160=>VI 2600=>VI 1040=>VI	Isolated peaks
Hippodrome	7000	100 50	1,0	14000 7000	7000 3500	580=>VI 290=>V	Isolated peaks
Cultural facility (Opera)	1300	100 80 50	2,0	1300 1040 650	650 520 325	650=>VI 520=>VI 325=>V	Isolated peaks
Amusement park	8300	100 50	3,6	4600 2300	770 380	80=>III 40=>II	Distribution over time
Zoo	1950	100 50	2,5	1560 780	260 130	60=>III 30=>II	Distribution over time
Tennis complex (six courts, one pavilion)	max. 140	100	2,0	140	20	50=>II	Distribution over time
Holiday village	1300	100	3,0	700	88	8-12=>I	Distribution over time
Golf course (18 hole)	75	100	1,5	100	35	1=>I	Distribution over time

**Note:**

Traffic generation categories display the incidence - with regard to traffic - of large-scale facilities dedicated to leisure. **Individual** traffic generators belong to categories 5 and 6; traffic is an essential criterion for their "spatial compatibility (tolerance)". Traffic generators **distributed over time** belong to categories 1 and 3; traffic is not an essential criterion for their "spatial compatibility (tolerance)".

**Table 7 . Method for calculating the total volume and average volume of anticipated traffic**

(Source: BMV.1995, 26) Federal Ministry for Transport)

Determination of the correct arithmetical method for the sector of the Plan considered for mixed use areas, e.g. in industrial areas						
No. of partial area	Name of use	Constructible area of land in ha.	Percentage of total area	Specific traffic volume/ha		% area and vol. col.2 x 5
				Vehicle /Goods transport	VFz	
0	1	2	3	4	5	6
1	P1			10 Fz	10	
2	P2			35 Fz	35	
3	P3			75 Fz	75	
4	P4			150 Fz	150	
5	P5			300 Fz	300	
6	P6			500 Fz	500	
7	Total P1...P6					
8	G1			4 GKW	12	
9	G2			12 GKW	36	
10	G3			25 GKW	75	
11	G4			50 GKW	150	
12	G5			100 GKW	300	
13	G6			167 GKW	500	
14	Total G1...G6					
15	PG1 (car/GKW)			5/2	11	
16	PG2 (car/GKW)			8/6	36	
17	PG3 (car/GKW)			38/13	77	
18	PG4 (car/GKW)			75/25	150	
19	PG5 (car/GKW)			150/50	300	
20	PG6 (car/GKW)			250/83	500	
21	Total PG1...PG6					
22	Lin. 7+Lin.14+Lin.21		100%			
23	Average value of total area in VFz/ha.			lin.22 col.6 / lin.22 col.2		

Note:  
Rather than considering absolute partial areas the calculation can also be made using percentages  
In this case, col.6 => col.3 x col.5  
and lin. 23 => (lin. 22 col. 6) / (lin. 22 col. 3)

**Sustainability**

**Table 8. Guideline values for the City of the Future**

<http://www.staedte-der-zukunft.de/>

Scope	Guideline value	Result
Optimum use of urban space	Floor occupancy	
Reduction in land consolidation (to waterproof)	Degree of consolidation (waterproof range)	
Energy saving	Heating value (kWh/m <sup>2</sup> )	
Reduction in polluting gases and greenhouse effect	CO <sub>2</sub> emissions	2005: -20%, 2010: -50%
Cure of and treatment for aquifers and local water reserves	Potable water consumption per person	< 110 l per day and person
Promoting recycling and reduction in waste volumes	Weekly waste volumes, per person	< 10 l or 2.5 kg per week and person
Connecting residential areas and workplaces to nearby public roads for transporting passengers	Proportion of sustainable means of transport: individual means of trans.	2 : 1
Improving the quality of the environment for pedestrians	Road accidents where people are hurt	
Supplying sectors of the population looking for housing with special demands	Housing surface area per person	
Guaranteeing basic supply near place of residence	Distance on foot	
Guaranteeing urban economic centres	Jobs in sectors compatible with the environment	
Supply houses to population sectors that have special needs in housing	Jobs in residential areas	

**Economy**

**Productivity of land allocated to large-scale retail commerce**

**Table 9**

**Productivity of land allocated to large-scale retail commerce**

Sector or Branch	Sales surface area [m <sup>2</sup> ]	Value / Year / m <sup>2</sup> sales surface area [Euros] Source: [Handel Aktuell'92, DHI, Köln e.V.]
Supermarkets (groceries) <sup>1)</sup>	>400 - >800	(Average) 5119
	400 - 499	6139
	500 - 599	5565
	600 - 799	5033
	800 - 999	4476
Hypermarket <sup>1)</sup>	< 1500	4605
	1500 - 2499	4436
	2500 - >4999	3889
Self-service <sup>1)</sup>	5000 - >10000	4580
Shopping centre <sup>1)</sup>	10000 - 19999	3923
	20000 - 29999	4073
	30000 - 39999	4046
	40,000 and above	3907
Specialised markets, according to branch		
Rugs / Curtains		2710
Textiles		3707
Groceries		4597
Shoes		3753
Ironmongers / Household goods		5154
Glass / Porcelain / Ceramics		2955
Radio / Television		6601
Drugstore / Cosmetics		3216
Leather articles and gifts		4009
Sports articles		3359
Toys		2868
Furniture		1017
Lighting / Electrical household appliances		3226
Photography		8610
DIY and Construction		1761
Garden centres		1355
Construction / Garden centres		1490
Department stores		4571

(Source: Fuhrich, M.: ExWoSt-Informationen zum Forschungsfeld "Städte der Zukunft" no. 22.2, December 1997 and "Leitplanken für den Kurs von morgen", in RaumPlanung 100, p. 22 and following, February 2002)  
<http://www.ifr-ev.de/raumplanung/uebersicht.htm> ExWoSt: Experimentellen Wohnungs- und Städtebau. Bundesamt für Bauwesen und Raumordnung (BBR)

**Ageing population**

According to UN criteria, when the proportion of elderly people over 60 years of age exceeds 10%

Compared standards deriving from the practice of green area planning (Ex. Munich)

Minimum surface area of green spaces in industrial zones 20%

Length of front gardens 5m

Length of back gardens ("terraces") 5-7 m

Wooded area in the construction of new housing: one large tree for every 200 m<sup>2</sup> of free space

Roof of underground car parks: 60 cm. If large trees planted there, 120 cm.

Minimum thickness of extensive plant cover: 10 cm

**Density percentage of working resident population**

Table 10.

Estimated maximum density of working resident population (Reference: 1 km radius around industrial zone)

<sup>1</sup> According to:

Range of functions of the industrial zone

A range of qualifications of residents

Population density (residents/km <sup>2</sup> ) x proportion of working population x specific value of choice of workplace <sup>1</sup>							
= maximum resident working population density in working centres of industrial zone							
Housing scheme	Residents/km <sup>2</sup> in the city's sphere of influence	Proportion of working population (%)	Value of choice of workplace (%)	Maximum resident working population density in working centres of industrial zone (%)			
				Size of industrial zone (jobs)			
				500	1000	1500	2000
Small towns (low density)	300	40	30	7	4	3	2
Large towns (medium density)	700	40	30	17	8	6	4
Cities (moderate density)	2800	40	20	34	17	11	8
Large cities (high density)	4000	40	15	48	24	16	12

Job alternatives within the industrial zone

(Source: BMV, 1995, 53) Federal Ministry for Transport

<b>Abbreviations</b>	<b>DTV</b>	<b>Durchschnittlicher täglicher Verkehr</b> Average daily traffic
	<b>EW</b>	<b>Einwohner</b> Residents
	<b>FGÜ</b>	<b>Fußgängerüberweg</b> Pedestrian walkway
	<b>FNP</b>	<b>Flächennutzungsplan</b> Land development plan
	<b>G</b>	<b>dominierender Güterverkehr</b> Predominantly goods transport
	<b>GE</b>	<b>Gewerbegebiet</b> Industrial zone
	<b>GFZ</b>	<b>Geschossflächenzahl</b> Proportion of constructed surface area within surface area of land
	<b>GKW</b>	<b>Güterkraftverkehr</b> Goods transport
	<b>LSA</b>	<b>Lichtsignalanlage</b> Traffic lights
	<b>MIV</b>	<b>Motorisierter Individualverkehr</b> Individual motorised traffic
	<b>ÖPNV</b>	<b>Öffentlicher Personnahverkehr</b> Outer public walkway for passenger traffic
	<b>OV</b>	<b>Ortsveränderungen</b> Journeys
	<b>P</b>	<b>dominierender Güterverkehr</b> Predominantly passenger transport
	<b>PG</b>	<b>Personen- und Güterverkehr in etwa gleichrangiger Mischung</b> Similar proportion of passenger and goods traffic
	<b>PV</b>	<b>Personenverkehr</b> Passenger traffic
	<b>WE</b>	<b>Wohneinheit</b> Unit of housing

By way of summary we will say that **all values are expressed in m<sup>2</sup>/resident, although the most recent studies** (in particular those conducted by the *Institut für Städtebau und Landesplanung (ISL)* at the University of Karlsruhe), **recommend "more specifics" and to substitute the name "resident" for "user"**. Beyond that, they point to the need to **define the user profile to the maximum**, based on an open casuistry of factors that would include from level of training to availability of time, money, vehicle..., passing through the definition of age, personal interests, etc..**Although Borchard's work includes these corrective or weighting factors** (e.g. with regard to museums, where the availability of works to be exhibited is also a factor to take into account), **the most recent list of guideline values we have available (Dr. Schrödter) does not** appear to have taken into account the demand for the **definition of the user profile**.

On various occasions we are referred to, as a **written reference, Borchard's 1974 study, making this the most important work with regard to OW and RW.**

The aforementioned study,

*BORCHARD, Klaus, Orientierungswerte für die städtebauliche Planung, ed.: Institut für Städtebau und Wohnungswesen der deutschen Akademie für Städtebau und Landesplanung München, Worksheets 1/1974, 2nd edition, Munich, 1974,*

as we shall see, was published at a time when the matter was creating great debate.

In 1974 the ISW, *Institut für Städtebau und Wohnungswesen (ISW)*, part of the *Deutsche Akademie für Städtebau und Landesplanung (DASL)*, jointly published all of Borchard's works, providing an exhaustive compendium of surface area and cost values.

In 1967, Klaus Borchard (1) presented his results in the form of guideline figures, including the word *Orientierungswerte* in the title of his work.

This was not a new word, it was coined in the Sixties during the intense debate on guideline and governing values (OW and RW) (2), due to the fact that the values used until then had become obsolete.

For Borchard - and for the ISW - OW had a dual character, as in instrument and as a concept. On the one hand, data regarding size or costs linked to a certain surface area organised (instrumented) this surface area into specific **quantities** for the concrete use it had been allocated. On the other hand, this quantity necessarily entailed a certain **quality**, that is, the concept of which it was a part.

If we focus on the instrumental value, OW are for Borchard average empirical values that adjudicate to certain areas directives with regard to sizes according to the use planning has assigned to them (3). Given their empirical character, these guideline values must be viewed with caution, in order that they are restricted to only reflecting the *status quo* at any moment in time.

(1) Borchard, Klaus (1968) ISW 1968 "Orientierungswerte für die städtebauliche Planung". Later re-issued by the ISW as ISW 1974/1 "Orientierungswerte für die städtebauliche Planung. Flächenbedarf, Einzugsgebiete, Folgekosten. Arbeitsblätter 1/1974". Some 1000 copies were sold. There has been no further reprinting to date. Borchard was nominated for the Chair of *Städtebau und Siedlungswesen* at Bonn University. Despite the high demand - even greater today with the new *Länder* of the ex-GDR - many planning offices must make do with the - often photocopied - 1974 edition.

(2) In order to understand the origins of this debate, compare Nagel, Ernst (1927) *Grundlegende Wertzahlen über Wohndichte und Besiedlungsdichte im Städtebau (München)* and Dahlhaus, Jürgen; Marx, Detlef (1968) *Flächenbedarf und Kosten von Wohnbauland, Gemeinbedarfseinrichtungen, Verkehrsanlagen und Arbeitsstätten*, Hannover.

(3) Today: Richter, Maik (1992) *Herstellungskosten und Folgekosten kommunaler Investitionen*. IFO Studien zur Inanzpolitik 52, 2 Bde., Munich.

We must therefore go even further to find the true origins of these values. To do this, it is helpful to consider the study by Peter Knock, *From the concept to the argument*, which provides a historical overview of the planning concepts and instruments in the FRG during the period 1960 to 1990, including a presentation of that undertaken during this period by the Urban Development Institute (ISW) at the German Academy for Urban And Regional Development (DASL).

KNOCH, Peter 'Vom Leitbild zum Argument. Konzepte und Instrumente raumbezogener Planung in der Bundesrepublik Deutschland 1960 – 1990'; und die Tätigkeit des Instituts für Städtebau und Wohnungswesen (ISW) der Deutschen Akademie für Städtebau und Landesplanung (DASL)“.

(Dissertation presented by the Dipl.-Ing. Peter Knock to obtain the qualification of Dr. in the Fakultät für Raumplanung at the University of Dortmund. 16th November 1999.)

In 1939, the ISW had already taken up the debate on governing values, the *Richtwertedebatte*, on the initiative of its director Gerd Albers (4).

We must situate this within the panorama of the *divided and aerated city* (*gegliedert und aufgelockerte Stadt*), a term taken from the homonymous work by Göderitz, Rainer and Hoffmann (5); and the *ideology of the small city* (Gottfried Feder, 1939).

Authors such as the aforementioned, together with Konstanty Gutschow and Fritz Rechenberg, influenced in part by National Socialism, attributed concrete values on surface area and costs to some specific uses.

They did this in a similar manner to the first compilation of data on surface area and dimensions conducted by Neufert in 1936 in the field architecture (6).

Göderitz, Rainer and Hoffmann, however, considered urban density figures - as a reference - that were more or less double those reached in 1990 for the FRG.

Feder's values, for their part, are even more unusable in a society that has become very industrialised, as they are framed in the image of the National Socialist ideal of an urban cell of 20,000 residents.

If we take Feder's density values (*Die neue Stadt*, p. 448), we find a value of 719 residents/km<sup>2</sup> as average occupancy for the territory.

In 1990, cities of over 10,000 inhabitants in the FRG had a density index of 524 residents/km<sup>2</sup>. This is despite the fact that in the prologue to his work, Feder defended the idea of *aeration*. It should come as no surprise that Hans Stosberg in *ISWREF. 5.10 1964*, (ISWMA, p. 21) still talks in 1964 of *fanatics of densification*.

National socialism and its predecessors would still have a strong influence on the planning methods employed in the Fifties. Their *planning structures* were subject to "predetermined concepts" (*leitbildverhaftet*). Imposed by decree, they were ineffective, authoritarian and conservative procedures opposed to the use of conceptual categories and progress. What is more, they also tended to interpret planning history and prior events as their own products, in the light of very particular ideological interests.

**From the Sixties onwards**, these methods were gradually replaced by methods of *discursive planning*, based on more conceptual categories and on the foundations of a *weighting scheme* (these were processes that would only use images and references in a supplementary way, as reinforcement, and not as a single and absolute, totalitarian category generated by means of imposition and excluding any type of discursive process).

From this time onwards planners have been gradually filling their conceptual/instrumental tool box, which reflects both freedom of choice and the non-subjection to references; characteristic of the discursive process of planning.

**We are witnessing, then, the progressive primate of the discursive process which seeks out the appropriate response to every question posed in acts of planning.**

**Today - and in Germany - this discursive character of planning finds its fullest expression in the constitutional mandate of weighting the public and private interests involved** (*Abwägungsgebot*, art. 1.6 BauGB), which opens the door to the participation of the private agents and governments interested in the plan approval procedure.

The *principle of weighting* dates back to the French Lenoir and Landry (1854), who based their theory regarding city development on subjecting it to the clash between public and private interests (Hegel, etc...)

The *argument*, which manifests itself in the details of the weighting mandate, in the *planning game or experiment* "Planspiele", in the figure of the French "participation", in alternative planning and the conceptual/instrumental method in general, becomes an essential factor in weighting, planning. It is for this reason that the true centre of gravity of urban development activity is the *planning phase*, and not the plan itself.

With *discursive planning*, we also witness the birth of the concept of "instrumental (science) knowledge" applied to town planning (7).

(4) Albers, Gerd (1964) ISW Ref. 7.4. "Richtzahlen für Bebauungspläne und ihre Grundlagen"; Ders. (1964) ISW Ref. 1.10. "Richtwerte für die Strukturplanung", ISWMA.

(5) Göderitz, Johannes; Rainer, Roland; Hoffmann, Hubert, *Die gegliederte und aufgelockerte Stadt*, Tübingen, 1957.

(6) Neufert, Ernst (1936) *Bauentwurfslehre*. 1. Auflage, Berlin

(7) Rittel, Horst (1969) Instrumentelles Wissen in der Politik. „Stadtbauwelt“ 21/1969, pp. 20 and following

VI. Gesundheit						
40	Sportanlagen		(2)	80000 m <sup>2</sup>	1000 m <sup>2</sup> * je nach baulicher Gestaltung	* Tribüne, Umkleideräume je nach Stärke der Benutzung 3–4 Sportplätze können in einer oder zwei Anlagen zusammengefasst werden
41	Turnhalle siehe Schule					
42	Freibad		(2)	20000 m <sup>2</sup>	300 m <sup>2</sup> 300 m <sup>2</sup>	
43	Hallen- Warmbad (eventuell mit Schwimmbad)		3 (6–8)	1700 m <sup>2</sup> ohne, 2200 m <sup>2</sup> mit Schwimmbad	350 m <sup>2</sup> 700 m <sup>2</sup>	Für später anzubauende Schwimm- halle rd. 340 m <sup>2</sup> bebaut: Fläche Bei der Planung sollte die größere Fläche gewählt wer- den, damit das Gebäude anbaufähig ist. Die Zahlen in Klammern = Warmbad und Schwimmbad
44	Kinder- krippen		8	3300 m <sup>2</sup>	655 m <sup>2</sup> 1197 m <sup>2</sup>	Fläche des Hofes: 277 m <sup>2</sup> Fläche des Kindergartens: 360 m <sup>2</sup> Fläche der Krippe: 360 m <sup>2</sup> Fläche des Personalraumes: 200 m <sup>2</sup> Kinderhort, Kindergarten, Kinderkrippe zusammen 5 Anstalten, Kinder insgesamt 300
45	Kindergärten und -horte					
46	Krankenhaus, Erkrankungs- anstalt		* 10–12 ** 60–70	30000 m <sup>2</sup>	2400 m <sup>2</sup> 6400 m <sup>2</sup>	* Ärzte ** nichtärztliches Personal Betten: (250–300)
70	Land- krankenhaus		13		150 m <sup>2</sup> (eingesch.) 230 m <sup>2</sup> (zweigesch.)	Mitglieder durchschnittlich: 8000 Krankheitsfälle durchschnittlich: 14 600
71	Orts- krankenhaus		31	vorgeschl. 2000 m <sup>2</sup>		Mitglieder durchschnittlich: 16552 Krankheitsfälle: 44 268 Mitglieder durchschnittlich: 6313 Krankheitsfälle: 13 950 a) für Stadt und Umgebung b) nur für den Stadtbereich
8	Altersheim		13	20000 m <sup>2</sup>	1300 m <sup>2</sup> 150–450 m <sup>2</sup> 3000 m <sup>2</sup>	Zahl der Plätze durchschnittlich: 140
9	Friedhof		1	130000 m <sup>2</sup>	85 m <sup>2</sup> (70–100 m <sup>2</sup> ) 85 m <sup>2</sup>	
10	Krematorium		(1)	1000–3000 m <sup>2</sup>	je nach technischer Ausbildung	nicht immer vorhanden

Table source: FEDER, Gottfried *Die neue Stadt*. 1939. Table OW i RW.

This concept was first formulated by Horst Rittel (ISW 1973/2 *Informationswissenschaften: Ihr Beitrag für die Planung*), and also within the framework of the *Institut für Städtebau und Wohnungswesen* (ISW).

From this time onwards we can begin to make a clear **distinction between planning instruments, according to whether they allow formal or informal concepts to be implemented (or put into practice)**, thereby distinguishing between **formal and informal instruments**.

**Informal instruments** would have the sense of the French word "**informel**", without form or without a specific mission or formal purpose. These would comprise all informative/informational instruments, being specifically used for the preparatory implementation of structural concepts generated by policy and the use of *formal instruments*.

**The following are included within informal instruments: in formal planning, Planspiele, the theory of planning, research and science, citizen participation, the continuing training of planning agents, tenders and studies and information systems (information regarding RW and OW surface areas and costs, inventory systems and information systems for planning).**

**Formal instruments** would basically be **legal in character**, formulated by the government and its structures, **ruling on planning, law deriving from planning, instruments for financing and generating occupancy**.

The use of formal instruments is extremely weakened and ineffective if not accompanied by the *cultivation* of informal planning instruments. These instruments serve to implement concepts of renewal, development and method.

We shall situate them in informal planning, in order to include the **informal informative instruments of interest to us - the OW and RW**.

This type of discursive planning - which appeared, as we have seen, during the Seventies with Horst Rittel - has the goal of improving or modifying the state of things by minimising any possible conflicts that may arise, on the basis of *free agreements* (above all in questions of sanitation, restoration, etc...). In Germany, the word agreement (*Vertrag*) implies the concept of "conciliation".

They appear, in the range of categories adopted by planners, as more importance is awarded to the so-called "contractual agreements" (*vertraglichen Vereinbarungen*) as a product of informal communication for resolving urban or territorial problems (8).

In the *speeding-up* of the planning procedure, this instrument allows specific results to be attained more quickly and/or more efficiently than other "codified" or "formal" means we have considered.

Bielenberg, Krautzberger and Söfker describe the role of this type of planning: "*town planning may also - like informal planning - form part of the concept of sanitation, urban services, ...In this respect, informal planning may be of an indirectly legal nature, and to a greater extent, a factual influence ...Therefore, appropriate informal town planning may bring specific aids to decision-making...*"

However, without a minimal legal guarantee, normally in the light of the principle of equality and in the form of municipal regulations (Bebauungsplan, BBP), that is, **without a formal nucleus, any informal planning will fail**.

As the most relevant and revolutionary informal instruments we find **Planspiele**.

Analysis - at the time - of the 1971 *Städtebauförderungsgesetz* (9) sowed doubts about whether the negotiation of the text in the Act and sanitation plans would not be better implemented by means of *Planspiele* (planning games or simulation (10)) than by "frontal indoctrination" (11). Educators and students were to participate equally in the discursive process, to avoid the advent of "authoritarian structures" in the planning process.

The experiences of "participation" from the French May of 1968 would be expressed eight years later in the 1976 *Bundesbaugesetz* (of 23.6.60), art. 2a, in the concept of "**citizen participation**" (*Bürgerbeteiligung*).

The *Planspiele* were initially developed by Knoch himself, and later together with Jörg Forssmann and Eugen Bruno. One of the objectives was to provide a response to totalitarian and/or authoritarian attitudes in the fields of research and teaching social politics. Inasmuch as it served to demonstrate the processes of discursive planning, the *Planspiel* made it possible to stimulate participants' knowledge and predisposition to learning within the framework of a revolutionary pedagogical project. The *game* is directed by a committee and may be interrupted at any time to allow a participant to speak, who must then comment on the current situation of the *game*. According to Knoch this type of informal instrument was widely accepted at the time.

From the group of informal instruments we can also highlight the role of **Research and science**.

The relationship between the sciences and planning occupied most of the attention of the ISW in the Sixties. During this decade there were 17 *Fachtagungen* or Reports, an age in which trust was placed in the idea that science could reinforce planning tasks.

Gerd Albers - director of the ISW at the time - had often talked about the relationships between science and town planning, hoping that "*science would summarise and order knowledge with regard to people, the city, the region, and be able to combat the state of fragmentation of the time... Science would need to move towards synthesis, if the 'planner' was not to assume this synthesising task with insufficient data and therefore run the risk of starting from false premises*".

Albers hoped to gain from science "*a combination of specific results from sociology and socio-economics, from psychology and hygiene, from geography and meteorology... to learn about the human environment..., in order to facilitate the understanding of realities and the relationships between these*" (12).

During the Sixties the help of science was regularly sought in the process of decision-making in planning (concept of *Regional Science* (13)).

As we saw at the beginning of this section when discussing the work of Borchard, **OW and RW, or what amounts to the same, surface area and cost information**, belong to the family of **informal instruments in the category of information systems**.

**These are empirical and attempt to demonstrate the relationship between quantity and quality of use and dimension of the costs of implementing use**, linked to a surface area.

(8) Ernst, Zinkhahn and Bielenberg already include the category "informal planning" in their comment on the *Bundesbaugesetz* (Kommentar zum BauGB, 41. Lfrg. Oktober 1989, §1, RN 22 and 228-234. Also Krautzberger (1986) "Der städtebauliche Rahmenplan", in *BbauBl* 4 / 1986, p. 210.

(9) Gesetz über städtebauliche Sanierungs- und Entwicklungsmaßnahmen in den Gemeinden (Städtebauförderungsgesetz- StBauFG) of 21st July 1971.

(10) Strategic and/or technical teaching method that aims to simulate the states of things by recreating a specific situation, linked to specific people. This was first developed by the military and formulated mathematically. Here it is understood as a teaching concept for the transmission and/or negotiation of planning situations. Its formalisation only reached the level of some draft laws. DIPLASP. Didaktische Planspiele. Hefte zur Anwendung didaktischer Planspiele bei der Planerfortbildung. ISW 1973 - 1981. Ed. Per Forssman, Jörg and Knoch, Peter.

(11) Indoctrination in the sense of the unilateral teaching of classes or seminars in front of an audience. As opposed to "Planspiele", based on the exchange of papers and group debate, and awareness-raising of participants in the learning process.

(12) Albers, Gerd (1961) ISW Ref. Wissenschaft und Städtebau.

(13) Böventer, Edwin von (1969) ISW Ref. 1.4. Wie weit erleichtert Wissenschaft die Entscheidung: der Beitrag der Regional Science. Ders. (1969) ISW Ref. 6.10 Regional Science und Landesplanung - über exakte Methoden in Raumforschung und Planung.

Complementary to OW and RW, and within the family of informal instruments, we find "stocktaking systems" *Bestandaufnahme*.

Classic urban development stocktaking results in a task of mapping stocks. Mittelbach (14) presents this in recompiled form and supplying both the stocktaking branch itself and the mapping of stocks. This is the first phase of a process that includes the analysis of collected data, the evaluation of results on the scale of a reference, graphic representation on a map and the final application.

In 1970 FehI and Frick (15) published a stocktaking system for planning as a guide and aid for most stocktaking procedures. At that time the term "Information system" was used to refer to the method, thereby situating this instrument in the field of planning, which remained the case until the appearance of the current "Raumbeobachtung"(16).

Also linked to the debate on guideline values (OW) and hovering over the systemisation of stocks, the "Information Systems for planning" appeared from the 1970s onwards. FehI focuses on their use in the US, whilst Kunz and Horst Rittel in particular speak of them in the FRG (17). Rittel is in favour of a discursive planning system (open planning), in which there is no concrete, localisable, identifiable guarantee: there must be discussion to discover the true problem and to reach a correct understanding of the solution. At the same time, however, Ritter mistrusted overuse of this type of *information system*.

Produced by Kunz, Rittel and Thorbjørn Mann in the Seventies, the *Issue Based Information System (IBIS)* was forgotten until it was recovered in 1991 at the Munich Congress *Informatik für den Umweltschutz*. Based on the Hegelian dialectic of opposites and Popper's critical rationalism, Knoch remains amazed at how this information system was forgotten given that *Streitfragenorientierung* (the strategy of opposing opposites, more or less) lies at the very core of current discursive methods in German planning (weighting mandate for public and private interests).

As a more recent planning information system we have the *Geographical Information System (GIS)*. This was first implemented in Germany in 1990, by Bernd Streich, the first to hold the Chair for *Lehr- und Forschungsgebiet EDV-gestütztes Entwerfen und Konstruieren in Raumplanung und Architektur* (computer assisted design, more or less), and assistant professor to Klaus Borchard at the University of Bonn.

The social component of planning - present above all during the second half of the 19th century and first half of the 20th - was completely forgotten around the period of the Second World War.

In times of National Socialism, the questions of conceptual/instrumental planning were condemned to ostracism.

**Knock, the author who allows us to historically debate OW and RW, defends a theory of continuity, in the shape of planning generated from power and subject to references being replaced by planning generated from discourse. From the reference, then, to discourse.**

**We situate guideline and governing values within the discursive act of planning as an informal instrument that aids decision-making and the consensus of proposals, as they are proposed - in this case and as we have seen previously - by a group of experts in the subject area.**

Given the clear applicability and use of guideline and governing values today, particularly demonstrated in the *Erläuterungsbericht* and the more recent *Begründung* of the FNP, would like to know the scope of OW and RW in town planning activity today.

Are they still **informal values** or should we now consider them formal merely due to their

**presence in the body of planning documentation?**

**Do they substitute the lack of legal values for the surrender of public land?**

We shall investigate these questions to find out **whether the government in charge of town planning activity produces its own governing values and whether or not it applies the references mentioned above.**

(14) Mittelbach, Heinz Arno (1958) Die städtebauliche Bestandaufnahme. Schriftenreihe des Bundesministers für Wohnungsbau, volume 10.

(15) ehl, Gerhard; Frick, Dieter (ISW 1970): *Ein Bestandaufnahmesystem für die Bauleitplanung*. FehI is editor of the magazine *Stadtbauwelt*. In 1990 they were assistants to Prof. Eggeling at Berlin TU.

(16) Gatzweiler (1982) ISW Ref. 6.10.: "Regionalstatistik und laufende Raumbeobachtungen: Möglichkeiten, praktische Erfahrungen und Weiterentwicklung". Ders. (1986) "Aktuelle raumstrukturelle Veränderungen".

(17) Kunz, Werner; Rittel, Horst (1973) Das Planungsinformationssystem U MPLIS.

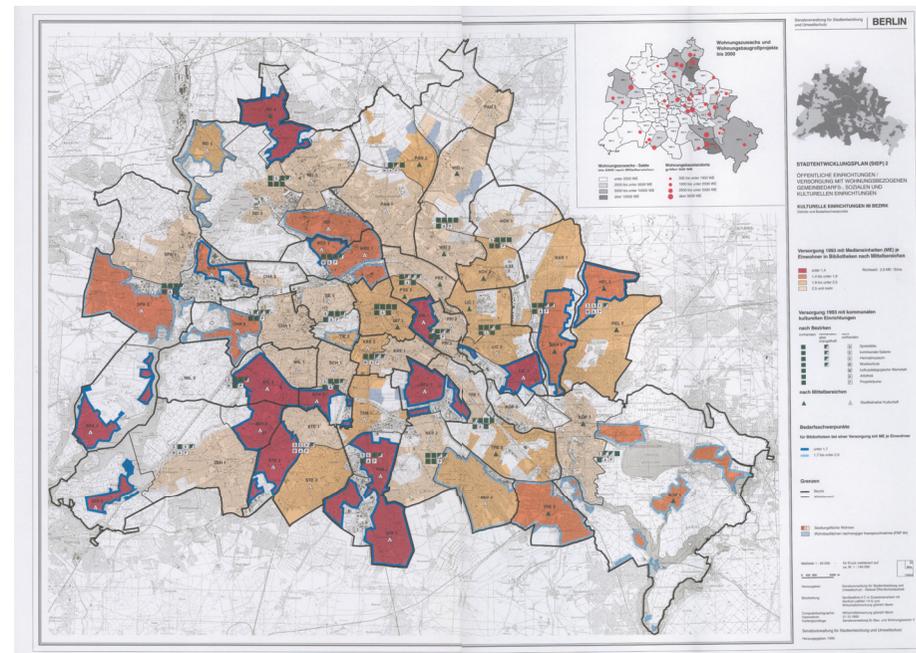


Image source:  
StEP 2. Öffentliche Einrichtungen. Versorgung mit sozialen und kulturellen Einrichtungen.  
Map of social and cultural actions.

## **basic facilities, universally guaranteed through regulations and plans**

We have observed the presence of governing values (RW) issued by the administration in various *Erläuterungsbericht* (Berlin, Wuppertal and Freiberg).

In addition to this, we have also verified the applicability and continual updating of guideline values (OW) attributable to the knowledge of experts in the subject area. Guideline values were conceived in the days of National Socialism - *from the concept to the argument* - as Peter Knock stated in his homonymous work, a work essential for understanding the historical path of these reference values to the present day. In this respect, we must highlight the work of Schröter and the ISL in maintaining and safeguarding these values or *standards*.

**Can we therefore expect these OW and RW to eventually converge at one single point? That is, are the RW that we find in FNP reports - in origin - OW proposed by experts thinkers? Or contrarily, do they have their origins in the regulatory *savoir faire* of government departments responsible for the issue in question?**

We shall investigate this matter by addressing questions that still remain open, legacies of the historical path of the OW and RW, such as **where the reference point is focused today (the denominator of a fraction): on the resident, on the user, on the potential user, on the effective user...and further, is there any distinction between local and general-type values or standards?**

The Berlin *Erläuterungsbericht* refers us to sectoral reports that were drafted after the 1994 FNP: STEP 1 and STEP 2, which would correspond to a partial updating of their precedents implicitly revised in the FNP *Report* document. The bias is found in the fact that, as we have seen, the 1994 FNP only contains references to standards related to schools, sports and equipment for young people and children; whilst the STEP extend this to culture and social facilities in general.

The "precedent" we are referring to here has its namesake in the STEP, with the title "Öffentliche Einrichtungen - Versorgung mit Sport- und Schulflächen", approved in 1989 and only for West Berlin.

What we do not yet know is why although reference values already existed for almost all infrastructures when the 1994 FNP was drafted (those provided by Borchard, revised and updated by Schröter), these were not used; this question is directly linked to the one posed at the beginning of this text with regard to **the foundations of governing values (RW) issued by the administration which appear to be unconnected to OW, leading to the perception of a divorce between concepts and regulations.**

STEP 1 and 2 were conceived at a time in which they would have a great influence. Germany, reunited five years previously, needed instruments that would help with *unification, homogenisation*; clearly, this did not exclude facilities.

Thus, STEP 1 regarding schools and sports facilities and STEP 2 regarding social and cultural infrastructures extended the range of (administratively accepted) governing values existing up to that point, updating those already in effect to provide the east and west of the city with the same range of facilities.

*STEP 1, Öffentliche Einrichtungen. Versorgung mit Schulen und Sportflächen* was approved by Berlin Senate Resolution no. 6165/95 on 25th July 1995. The main objective is stated as achieving the rapid balancing of the two sides of the city with regard to schools and sports.

A general evaluation of the facilities available as of 31.12.93 allowed for a representation of deficits in terms of primary and secondary schools and sports installations - indoor and

outdoor - measured on the basis of valid governing values for each case.

This level of planning, *Stadtentwicklungsplanung*, development planning, is by nature a recommendation for the government and constitutes the foundation for all other planning. The Berlin House of Representatives (*Abgeordnetenhaus*) must be notified of Development Plans, *Stadtentwicklungspläne*, approved by the Senate.

They are not, however, binding for citizens or legal entities, whether public or private.

*STEP 2. Öffentliche Einrichtungen. Versorgung mit sozialen und kulturellen Einrichtungen*, is also approved.

It is divided into two clearly differentiated parts: the one referring to *Versorgung mit sozialen Einrichtungen* contains measures regarding facilities for the elderly and the disabled. The second part - *Versorgung mit kulturellen Einrichtungen* - refers to cultural facilities, music schools and libraries.

The main objective is also stated as that of achieving homogenous provision for the entire city and the rapid balancing of the two halves.

This is also based on a general evaluation of the facilities available (as of the same date), allowing for a representation of deficits in terms of facilities for the elderly, libraries and music schools, also measured on the basis of valid governing values for each case.

The part corresponding to social facilities (the elderly and disabled) **establish for the first time a series of governing and guideline values**, taking into account the disparities in terms of provision between the western and eastern districts of the city.

The part referring to cultural facilities is similar, **no previous governing and guideline values existed**. As in this area - with the exception of libraries and, partially, music schools - this type of reference did not exist, and a strictly quantitative evaluation of cultural "provisioning" is not appropriate, it was necessary to first create them from a methodological viewpoint.

It mentions **the need to continue work on the design of urban guideline values** (*städtebauliche Orientierungswerte*) with regard to cultural facilities, to be taken into account for future residential developments.

These two sectoral reports are in effect today. We shall see **whether these are updated by the issuing departments, transforming sectoral standards into town planning values, or whether, by contrast, this responsibility falls solely to the Department for urban development**, which, as we have seen, generated population-based projections to be applied by all departments.

We shall also see whether these governing values or standards are accompanied by reports, studies, laws...and whether in the latter case laws will contain values, providing them with a foundation and the maximum regulatory force possible.

In order to achieve this broad objective we shall take **examine the Land government of Berlin, analysing the policies that accompany the needs for facilities forecast by the departments.**

This takes the form of a questionnaire sent to those responsible for planning facilities in each area, and in many cases this has also involved interviews.

The questions address the key themes we have presented here.

The Catalan and English translation of the questions is attached, although the questionnaires were administered in German and/or English. It was necessary to carry out extensive prior research into the administrative structures in order to find the appropriate contacts.

Results are presented in the following way:

facilities have been segmented into departmental categories, with the distribution resembling that of Catalan government. The categories used are those displayed on the left of each table (translated into English).

A short abstract of the sectoral governing values is attached below each table, taken from *EMPIRICA, Commissioned by the Senatsverwaltung für Stadtentwicklung Berlin [Town Planning Dept]*, a revised study of governing values applicable today.

An appendix is attached at the end of this section with extensive details of the sectoral RW.

## 2. CENTERS FOR THE CULTURE Culture Department

Kategorien:

Facilities Categories:

Theater und Konzertsäle: THEATRES AND AUDITORIUMS [TE]

Kinos und Vorführräume: CINEMAS & PROJECTION ROOMS [CI]

Archive: ARCHIVES [AR]

Bibliotheken: LIBRARIES & READING ROOMS [BS]

Museen und Ausstellungen: MUSEUMS & COLLECTIONS [MS]

Weitere kulturelle Infrastruktur, wie Veranstaltungsräume, Ausstellungsräume, Gemeinschaftshäuser: CULTURALS PLACES [RE] as conference rooms, exhibition rooms...cultural halls

Bildungseinrichtungen, wie Volkshochschulen, Naturerlebniszentren: EDUCATIONAL AND DISCLOSURE CENTRES [CE], as not-ruled teaching, school music, nature centers...workrooms

Touristeninformation: CULTURAL OFFICE [OC], as tourism office

Answers:

Bezirksamt Lichtenberg von Berlin (per Rummelsburger Bucht)

Abteilung Kultur und Bürgerdienste

Amt für Kultur und Musikschule

Dirección: Frau Dr. Ute Tischler

ute.tischler@libg.verwalt-berlin.de

030 90296-3730

030 90296-3739

Frankfurter Allee 187

10365 Berlin

Edificio 14, Despatx 14010

On PUBLIC FACILITIES related to CULTURE	
QUESTIONS	ANSWERS
<b>1. How are needs forecast with regard to facilities in your department?</b>	
Do you use any of the <i>Orientierungswerte</i> (OW) / <i>Richtwerte</i> (RW) proposed by experts in the field - such as Borchard or Schröter?	Standards are used for some facilities and <i>social indices</i> for others. Until before the crisis, we would receive a per capita budget for facility provision policies. Now you receive money - and not much - if you have a cultural initiative, it is quite different I am responsible for <i>music schools</i> in particular, which are considered cultural rather than educational facilities. They must be open to everyone, regardless of social background, age or gender. The value we apply for planning is that <b>1.2% of the district population must be able to study at music schools</b> (in Lichtenberg we are at 0.8%, so there are free places in schools today) [I have received the 'regulation for music schools in digital format]. The SGB VIII Act is the federal Act that guarantees cultural education for young people. <b>The Schulgesetz is Berlin law</b> , based on the SGB VIII, and <b>requires that each district of Berlin have a minimum of at least one music school.</b> [I have received both Acts in digital format]
Is there any departmental regulation that guarantees a minimum quantity of facilities in relation to the total population forecast?	
Is any distinction made in terms of needs and planning between facilities that will be constructed and managed on public land and those that will be located on private land?	
<b>2. What type or category of facility is forecast for planning?</b>	
In the <i>Flächennutzungsplan</i> F-plan? And in the B-plan?	In the district (municipality) we have a <i>Plan for Musical Cultural Infrastructures</i> , the main planning instrument [I am given a paper copy]. The other cultural departments of the district have their own infrastructure plans, social indices, laws to cover this and their own standards. (For example, <b>the department concerned with libraries is traditionally the most prolific when it comes to standards</b> ) In every district we have a <i>Planning Committee</i> , where there are representatives from all departments and sections. There is a monthly meeting to study how to express sectoral infrastructure needs - in the broadest sense - through the B-plans; this means that there are representatives from Town Planning involved in the debate. Continuous feedback and group consensus is sought. Definitive planning is complemented with a "round" of written questions to the possible agents involved in the development of said plan (public or private bodies it is thought may have an interest in having a presence in the new development). Around one hundred letters are sent for each projected plan.
Which facilities are planned in the specific <i>Stadtentwicklungspläne</i> or <i>Standortpläne</i> ?	
Do the plans distinguish between facilities planned as public and those planned as private, and the uses allowed for these?	
<b>3. The categories we believe may be assigned to your department are as follows; if any of those listed are not the responsibility of your department, please state which:</b>	
Theater und Konzertsäle Kinos und Vorführräume Archive Bibliotheken Museen und Ausstellungen Weitere kulturelle Infrastruktur, wie Veranstaltungsräume, Ausstellungsräume, Gemeinschaftshäuser Bildungseinrichtungen, wie Volkshochschulen, Naturerlebniszentren Touristeninformation	There is no Department of Culture as such, on a <i>Land</i> level, it is the direct responsibility of the mayor's office, at the express request of the mayor, and we therefore share with him the work involved in being an internal affairs department. This is due to the idiosyncrasies of Berlin being a city-state. Prior to this situation, culture was the responsibility of the Department for Research, Science and Culture. Science and research stay where they are, that is, they have a senator. But not culture. Previously it was the one for science, research and culture. Science and research stay where they are, that is, they have a senator. Culture, therefore, functions according to district (municipality). The section we visited, in the district/municipality of Lichtenberg, is in charge of art galleries, museums, exhibitions and music schools. For information regarding other facilities we must contact the corresponding section. The extreme segmentation of departments (this not only happens with culture) makes co-operation difficult (an example is given of it being practically impossible to organise a music school's children's concert at an art gallery, even though they belong to the same department), very watertight compartments.
<b>4. Within the department, is there any census of the facilities available?</b>	
Are accounting lists used to monitor the constructed reality?	The mayor's office continually issues statistics allowing us to "compare ourselves" with other districts.
If a census is available: what type of restrictions/limitations is the department working with? Administrative? Sectoral, specifically created for quantifying these?	

### GOVERNING VALUES IN EFFECT IN RELATION TO CULTURE:

**Public libraries:** 2.5 "average" units / resident. Versorgung mit kulturellen Einrichtungen" (StEP 2), 25.7.1995, Stadtentwicklungsplan "Öffentliche Einrichtungen -  
**Music schools:** 2,325 m2 of usable surface area / 1,000 residents Study 'Räume für Musik'

EMPÍRICA, by request of Senatsverwaltung für Stadtentwicklung Berlin (Urban Planning Dept.)

Ausstattung der Berliner Bezirke mit sozialer Infrastruktur 1999 und 2000. Aktualisierter Ausstattungvergleich. (Infrastructure provision in the Berlin Districts between 1999 and 2000. Up-dated comparative)

Respon:  
 Districte: PANKOW  
 Sub-districte: PRENZLAUER BERG  
 La seu general del districte (*Bezirksamt Pankow*) és a:  
 Breite Strasse, 24A-26  
 13187 Berlin  
 Tel.: 030 90295-0 Fax: 030 90295-2244  
 Fr. Carrasco  
 Directora, Planejament (Planejament general i derivat)  
 Tel.: 030 90295-3468

[Carrasco offers a translation of her comments into Spanish. Here is a transcription of the whole text:]

Dear Ms. Lluïsa Marsal,

To make affirmations regarding the planning of cultural institutions is quite difficult. A prior observation is necessary here. **Berlin has a two-tier administrative structure.** On the one hand there are the **Senate administrations** (= federal state government of Berlin) structured according to specialised thematic areas and whose jurisdiction covers the city as a whole. On the other, there are the **district administrations which are also subdivided into various specialised areas.**

**Public cultural institutions in Berlin are subordinate to different administrations according to their size and importance.** In some cases to the **cultural administration of the Senate** and in others to the **Cultural Office** of the district administration. Furthermore, in Berlin, as the capital of Germany, there are cultural institutions that are subject to the administration of the **Federal Government.**

In addition to this, Berlin has a **large number of private cultural institutions.** This does not mean that these institutions are necessarily on private land. On their different levels (federal government, Senate, district administrations) the public administrations support some private cultural institutions by means of favourable conditions for renting public land or buildings.

Due to its history as a divided and then reunited city, Berlin has a large number of cultural institutions. **Due to debt and the need to cut costs,** Berlin is not in the position to continue maintaining all existing cultural institutions. When planning public cultural institutions there must be a weighing up of the cultural needs of the population, the effects on Berlin as a tourist city and ever decreasing financial means. **In order to prevent the closure of public cultural institutions, an attempt is being made to transfer them into private hands.**

**In Germany there is no right to cultural institutions, and therefore no obligatory covering of needs oriented by standard values.**

The municipalities in Germany decide, within their economic possibilities, which and how many cultural institutions to allow. Considering that cultural institutions are an important factor in the attraction value of a community. The municipality of Pankow drafted a *Cultural Development Plan* which was approved by the municipal board. This plan establishes under which conditions cultural institutions are preserved and which are to be abandoned or whether various small institutions are to be founded as one larger one (libraries, for example).

Cultural funding is determined on the basis of this. Most private cultural institutions request funding from the cultural administration, which is why the cultural administration of the district is also aware of these private cultural institutions.

On an **urban planning level the establishing of cultural institutions** (especially private) **is regulated by means of fixing the number of cultural centres.** Cultural institutions above a certain size (for example, places of entertainment over 100 square metres) may receive planning rights only in specific areas (central areas or areas of common use) due to repercussions on the environment.

**Cultural institutions are not represented on the planning level "land development plan" (FNP).** They **have recently been awarded importance as places on subsequent levels of planning.** For example, in the "urban development plans" established by the Senate for Berlin as a whole and in the "zone development plans" established by municipalities for sectors.

Cultural institutions are utilities that make an essential contribution to the formation and development of centres. Here, of course, decisions are not taken about each individual cultural institution. The significance of a cultural institution depends on the perception of its content and their influence on public opinion, something which cannot be understood in terms of categories of land rights within the jurisdiction of urban planning and construction. **The institutions named in the questionnaire cannot be divided into different categories of importance, because then they would be divisible according to their size and influence on public opinion.** It is irrelevant whether a museum has, for example, 10,000 m<sup>2</sup> or 100 m<sup>2</sup> if its level of attraction is minimal or huge.

The "binding planning right" is exclusively formulated through "building plans", which ensure where necessary areas of common utility or establish centres in the legal category of "urban areas". In general, building plans are established by the districts. Cultural institutions are common utilities but also admissible in general terms in urban areas. Educational institutions are not considered to be cultural institutions, and they are therefore not governed by Cultural Offices.

My answers to your questions have only been limited, but I hope that my explanations will be of help. If you require more precise information, please feel free to request this in writing.

Yours sincerely  
 Ina Carrasco

Biblioteca principal (amb funció regional)	350000 "unitats de media" (um)	9000 – 10000 m2
Biblioteca principal	130000 um	4000 m2
Biblioteca infantil	25000 um	650 – 750 m2
Biblioteca de barri	50000 um	1300 – 1500 m2
Biblioteca (combinada) de barri i escolar		800 – 900 m2
Biblioteca de barri	32500 um	850 – 1000 m2
Biblioteca de barri	25000 um	650 – 750 m2

<Minimum surface needed in diferents kinds of libraries

EMPIRICA, by request of Senatsverwaltung für Stadtentwicklung Berlin (Urban Planning Dept.)

### 3. BILDUNGSEINRICHTUNGEN, CENTERS FOR THE TEACHING Education Department,

Kategorien: Allgemeine Bildungseinrichtungen  
Facilities Categories: General System Education

Kinderkrippe: NURSERY SCHOOL [LLAR]  
Kindertagesstätte, KINDERGARTEN [INF]  
Grundschule, ELEMENTARY EDUCATION [PRIM]  
Sekundarstufe I: SECONDARY EDUCATION [SEC]  
Sekundarstufe II: BACHELOR'S DEGREE [BAT]  
Universität: UNIVERSITY [UNI]  
Lernbehindertenschule: SPECIAL EDUCATION [EES]  
Berufsschule, HALF DEGREE FORMATIVE COURSES [CFM], as Plastic Arts, Design and Sports Technical (Half degree)  
Berufsschule: HIGH DEGREE FORMATIVE COURSES [CFS], as Plastic Arts, Design and Sports Technical (High degree)  
Volkshochschule (Erwachsenenbildung, zweiter Bildungsweg): SENIOR TEACHING [FPA]  
Einrichtung für Qualifizierung von Arbeitslosen?, SOCIAL VALUE PROGRAMS [PGA]

Kategorien: Kunsthochschule,  
Facilities Categories: Special System Education

Musik: MUSIC [REM]  
Tanz: DANCE [RED]  
Theater: DRAMATICS [REA]  
Restaurator: CONSERVING AND RESTAURING HERITAGES [REBC]  
Sprachen: LANGUAGES [REI]

Kategorie: ausländische Schulen,  
Facilities Categories: Foreign Systems Education

deutsche Schule: GERMAN SCHOOL [SIA]  
britische Schule: BRITISH SCHOOL [SIB]  
französische Schule: FRENCH SCHOOL [SIF]  
italienische Schule: ITALIAN SCHOOL [SII]  
japanische Schule: JAPANESE SCHOOL [SIJ]  
amerikanische Schule: AMERICAN SCHOOL [SINA]  
Schweizer Schule: SWISS SCHOOL [SIS]

Answers:  
Referat II B Planung, IT-Einsatz in Schulen,  
Schulentwicklungsplanung  
(Planejament, Tecnologies de la Informació a l'escola, Desenvolupament sectorial)  
Christine Würger  
[christine.wuerger@senbjis.vervalt-berlin.de](mailto:christine.wuerger@senbjis.vervalt-berlin.de)  
030 9026 5707  
Beuthstr. 6-8  
10117 Berlin - Mitte

On PUBLIC FACILITIES related to EDUCATION	
QUESTIONS	ANSWERS
<b>1. How are needs forecast with regard to facilities in your department?</b>	
Do you use any of the <i>Orientierungswerte</i> (OW) / <i>Richtwerte</i> (RW) proposed by experts in the field - such as Borchard or Schröter?	Town planning governing values have limited application in the case of schools (urban schools occupy very little surface area, those outside the urban area, more) Calculations are made of the number of rooms and the surface area required for good education on the basis of the number of pupils, timetable, "curricular" type requirements, whether it is a full-time school (morning and afternoon), etc... <b>From this we form a "Standard programme" (Musterraumprogramm) and specify governing values which we adopt as norms/standards.</b> From these and the possibilities offered by the location in question, we construct and manage the centres.
Is there any departmental regulation that guarantees a minimum quantity of facilities in relation to the total population forecast?	No administrative regulations exist in this respect.
Is any distinction made in terms of needs and planning between facilities that will be constructed and managed on public land and those that will be located on private land?	Yes. State schools must adapt to the aforementioned criteria (norms/standards). <b>Private schools are not subject to pre-established standards or regulations.</b>
<b>2. What type or category of facility is forecast for planning?</b>	
In the <i>Flächennutzungsplan</i> F-plan? And in the B-plan?	I recommend you consult the <i>Senatsverwaltung für Stadtentwicklung</i> (SenStadt) with regard to this extreme. As far as we are aware in this Administration, <b>only facilities with a surface area of over 3 ha. are reflected in the F-plan</b> , as well as those of supraregional relevance. <b>The B-plan</b> - when its drafting is required - <b>must specify the concrete location of educational centres.</b>
Which facilities are planned in the specific <i>Stadtentwicklungspläne</i> or <i>Standortpläne</i> ?	Consult the SenStadt.
Do the plans distinguish between facilities planned as public and those planned as private, and the uses allowed for these?	Consult the SenStadt.
<b>3. The categories we believe may be assigned to your department are as follows; if any of those listed are not the responsibility of your department, please state which:</b>	
<b>BILDUNGSEINRICHTUNGEN,</b> <b>Kategorien: allgemeine Bildungseinrichtungen</b> Kinderkrippe, Kindertagesstätte, Grundschule, Sekundarstufe I, Sekundarstufe II, Universität, Lernbehindertenschule, Berufsschule Volkshochschule (Erwachsenenbildung, zweiter Bildungsweg) Einrichtung für Qualifizierung von Arbeitslosen <b>Kategorien: Kunsthochschule,</b> Musik, Tanz, Theater, Restaurator, Sprachen <b>Kategorie: ausländische Schulen</b> deutsche Schule, britische Schule, französische Schule, italienische Schule, japanische Schule, amerikanische Schule, Schweizer Schule	When you say "responsibility", that's all relative. Our Department is concerned with specifications, standards, etc... for primary schools, schools... (here there are problems of correspondence between your school system and ours...), Catalan secondary education, special education, further education and adult training.  Centres are constructed and managed by the agents responsible for them, generally the districts.
<b>4. Within the department, is there any census of the facilities available?</b>	
Are accounting lists used to monitor the constructed reality?	The Statistics Department of Section II of the Department of Education, Science and Research collects annual data with regard to the number of schools, pupils, etc...
If a census is available: what type of restrictions/limitations is the department working with? Administrative? Sectoral, specifically created for quantifying these?	Statistics on schools and pupils use administrative criteria, which partially rely on other sectoral criteria. E.g.: in the case of primary schools, regional radii for action (or areas of influence) are set which may, however, vary. The statistic is for the number of pupils in each school.

#### GOVERNING VALUES IN EFFECT IN RELATION TO EDUCATION

**Primary schools (G, Grundschulen):** 26 pupils per class; 156 pupils per section; 10 rooms per section

**Secondary schools (OH, Hauptschulen):** 19-24 pupils per class; 87 pupils per section; 8.5 rooms per section. (Directive for determining the timetable and organisation of schools in Berlin from the 2000/2001 academic year onwards)

**Middle schools (OR, Realschulen):** 29 pupils per class; 116 pupils per section; 8.5 rooms per section. (Richtlinie für die Lehrerstundenzumessung und die Organisation der Berliner Schule ab dem Schuljahr 2000/2001)(11.7.2000)

Answers:  
Herr Sven Nachmann (Abteilung III, Referat IIIB)  
030 9026 5533  
[sven.nachmann@senbis.verwalt-berlin.de](mailto:sven.nachmann@senbis.verwalt-berlin.de)

[Signed on behalf of Mr Nachmann]

**Hannelore Hoehne** (Family Policy Department, Nursery schools and preschool education, III B 11, Department of Education, Science and Research)

She states that with regard to children's facilities, it is necessary to refer to the **Act for the Promotion of Nursery Schools (*Kindertagesförderungsgesetz, KitaFöG*)**. *Tageseinrichtungen* (literally, Day Centres) are nursery schools created on the initiative of parents and parent-children groups (*Eltern-Kind-Gruppen*), where small children meet regularly every day, for some or all of the day.

At what are known as joint and free nursery schools there is a mixture of the smallest children ("pre-infants") and infants up to school age. Infants have the right to have access to a Day Centre; for the smallest (*pre-infants*) a suitable number of places are reserved on the basis of quantifying criteria from the Act for the Promotion of Nursery Schools (*Kindertagesförderungsgesetz, KitaFöG*).

At nursery schools created on the initiative of parents it is they who organise their children's education. Parent-children groups regularly offer part-time care of children, as well as other facilities and services, and with the active participation of the parents.

**All Day Centres require a minimum 3 m<sup>2</sup> of "pedagogical area"/child;** newly-built facilities must aim to be **closer to 4.5 m<sup>2</sup> (art. 12 (3) KitaFöG)**. An adequate proportion of free space is also required: this is to be determined, depending on the particular location of the centre and its level of occupancy, in accordance with that stated in art. 45 of Sozialgesetzbuch VIII.

Art. 19 of the KitaFöG states that the Youth Departments (*Jugendämter*) of the 12 districts of Berlin are obliged to provide for sufficient supply in their respective areas within the framework of youth aid planning. The Youth Departments are responsible for quantifying and developing this plan.

Answers:  
Wolfgang Mahnke  
Senatsverwaltung für Bildung, Wissenschaft und  
Forschung -V D -  
Brunnenstr. 188-190  
10119 Berlin  
Tel.: 90228-642

**Wolfgang Mahnke**

He states that he, together with Bernhard Kleber, is in charge of the secondary schools and universities in Berlin (generic category "*Hochschulen*") within the framework of the Department of Education, Science and Research. Other sections of the Department are concerned with questions regarding schools and social facilities for young people and families. He can therefore only answer for that related to *Hochschulen*. He does, however, consider the questions in the questionnaire to be somewhat less than ideal, as they refer to centres for further education.

He provides us with a response in Spanish, which is reproduced in full below:

Dear Ms. Marsal LLacuna,

Mr. Mahnke has asked me to respond to your letter. My name is Sigrun Riedel and I am studying Spanish at the adult education centre in Berlin.

I do not speak Spanish correctly, however, and make a lot of mistakes, but I want to write to. I hope that you understand everything.

Your letter really attracted my attention.

I am sorry that we cannot respond to your questionnaire in full. Our administrative department is in charge of universities because the universities are funded by the State.

We work on new construction projects for the universities of Berlin in particular.

Furthermore, we stipulate or determine the size of universities and higher technical schools on the basis of reference values and characteristic values. We therefore consider not only the number of students and employees but also the amount of surface area required.

In our department we are not concerned with urban planning, where the methods of Borchard or Schröter are applied.

In this case I would recommend you contact the body responsible for planning: the Berlin *Senatsverwaltung für Stadtentwicklung*.

They may be able to give you a response to other questions such as the land development plan and the urban development plan and also location planning.

In addition, **each university has its own development plan**.

Unfortunately, we cannot help you with questions about other educational centres in your questionnaire.

#### GOVERNING VALUES IN EFFECT IN RELATION TO EDUCATION

**Comprehensive schools (O, Gesamtschulen):** 29 pupils per class; 116 pupils per section; 8.5 (11) rooms per section (without (with) Sek. II.)

**Secondary schools (O/OG, Gymnasien):** 29 pupils per class; 116 pupils per section; 12 rooms per section

**"Adult education centres" (Volkshochschulen):** 1 room / 5000 residents. (Stadtentwicklungsplan. "Öffentliche Einrichtungen -Versorgung mit Schulen und Sportflächen" (StEP 1), 25.7.1995

EMPÍRICA, by request of Senatsverwaltung für Stadtentwicklung Berlin (Urban Planning Dept.)

Ausstattung der Berliner Bezirke mit sozialer Infrastruktur 1999 und 2000. Aktualisierter Ausstattungsvergleich. (Infrastructure provision in the Berlin Districts between 1999 and 2000. Up-dated comparative)

4. SPORTEINRICHTUNGEN, CENTERS FOR THE SPORT  
Catalan Sports Council (Presidency Department),

Freiland,  
Facilities Categories: Outdoors

Spielfeld (Fußball):PLAYING FIELD [CAM]  
Spielfeld (Basketball, Tennis): SPORTS COURT [PEL]  
Freibad: SWIMMING POOL [PAL]

im Gebäude,  
Facilities Categories: Indoors

Sporthalle: SPORTS HALL [PEC]  
Fitneßstudio: SPORTS ROOM [SAL]  
Schwimhalle: SWIMMING POOL [PCO]

Spezialeinrichtungen,  
Facilities Categories: Specials

im Freien (Reiten, Golf,...) OUT-STANDING PLACES, ACTIVITY AREAS [SIN]  
im Gebäude (Kletterhalle, ...): OTHER NON-CONVENTIONAL PLACES [ALT]  
Hochleistungssportzentren (Olympiastützpunkte): HOME SPORT BUILDINGS [EDS]

Answers:  
Bernd Holm  
Senatsverwaltung für Inneres und Sport  
Referat für Sportentwicklung und Standortmarketing IV C 2  
Klosterstr. 47  
101.79 Berlin  
Tel.: +49 30 9027 2961  
Fax.:+49 30 9027 2970  
Mobil: 0163 6997681  
bernd.holm@seninnnsport.berlin.de

On PUBLIC FACILITIES related to SPORTS	
QUESTIONS	ANSWERS
<b>1. How are needs forecast with regard to facilities in your department?</b>	
Do you use any of the <i>Orientierungswerte</i> (OW) / <i>Richtwerte</i> (RW) proposed by experts in the field - such as Borchard or Schröter?	I would call our procedure "dialectical and problem-oriented". <b>We do in fact use guideline values related to diverse age groups to establish a comparison between needs for facilities and the facilities available.</b> We are in a <b>process of reviewing the guideline values</b> , as the ones we have are no longer valid. A professor at the University of Osnabrück has been commissioned to this end. He states that it is more important to have knowledge of the problem, and not so much the standards. We have a long tradition of planning facilities, and we are of the opinion that the problem must be analysed thoroughly in order to apply the standards, which on many occasions only serve to evaluate and confirm on the basis of accumulated experience.
Is there any departmental regulation that guarantees a minimum quantity of facilities in relation to the total population forecast?	We have a Sports Act [he provides me with the digital link] which does not refer to standards. <b>We are not in favour of including standards in Acts.</b>
Is any distinction made in terms of needs and planning between facilities that will be constructed and managed on public land and those that will be located on private land?	Yes, we distinguish between these categories. However, we attempt to supply and provide for all the sports facilities required in formulating our sectoral objectives.
<b>2. What type or category of facility is forecast for planning?</b>	
In the <i>Flächennutzungsplan</i> F-plan? And in the B-plan?	The Berlin FNP only represents general lines of planning. As far as sports installations are concerned, "threshold" values are set. The exact location of public sports areas is normally established in the B-plan.
Which facilities are planned in the specific <i>Stadtentwicklungspläne</i> or <i>Standortpläne</i> ?	We are in favour of the Development Plans for Sports Areas being drafted at the district level, and in such a way as to only require one sole installation. A municipal sports facilities plan is unviable, not all of the categories can be included and for such a large area. The ideal is <b>plans per installation, directly addressing the problem.</b> Municipal level planning (for the whole city) would only then be established for special installations of municipal interest (for the whole city) and recommendations and directives drafted for planning at the district level. What is more, let us remember that programmes with a municipal scope may tend to have very diverse objectives (e.g.: restoration programmes).
Do the plans distinguish between facilities planned as public and those planned as private, and the uses allowed for these?	We try to work by using the broadest categories possible when drafting the plan (such as "Areas for sport") in order to <b>be able to include both categories, public and private facilities.</b>
<b>3. The categories we believe may be assigned to your department are as follows; if any of those listed are not the responsibility of your department, please state which:</b>	
<b>Justiz, Inneres</b> Rathaus/ Gemeindeverwaltung; Öffentliche Sicherheit Wirtschaftsgebäude (Betriebshof, Lagerräume); Kreisverwaltung; Gerichte Katastrophenschutz, Feuerwehr; Polizei <b>Sport</b> Spielfeld (Fußball); Spielfeld (Basketball, Tennis); Freibad <u>im Gebäude</u> ; Sporthalle; Fitneßstudio; Schwimhalle <u>Spezialeinrichtungen</u> ; im Freien (Reiten, Golf,...) ; im Gebäude (Kletterhalle,...) Hochleistungssportzentren (Olympiastützpunkte).	By contrast with Catalonia our department does not include the areas of Justice and Home Affairs. As a Department for Sports we have jurisdiction over: sports fields/areas (football, basketball, tennis), open-air swimming pools, sports halls, fitness, indoor swimming pools and special facilities (outdoor - riding, golf; indoor - indoor rock climbing, training centres).
<b>4. Within the department, is there any census of the facilities available?</b>	
Are accounting lists used to monitor the constructed reality?	We update data on public sports facilities every year.
If a census is available: what type of restrictions/limitations is the department working with? Administrative? Sectoral, specifically created for quantifying these?	We employ sectoral criteria "we collect ourselves".

GOVERNING VALUES IN EFFECT IN RELATION TO SPORT

**Indoor sports installations:** 0.34 m2 calculable indoor surface area / resident (*Sportstättenentwicklungsplan A (Teil II)*], 10.01.1989) Sports Installations Development Plan A (Part II)

**Outdoor sports installations:** 2.5 m2 calculable sports area / resident. *Stadtentwicklungsplan "Öffentliche Einrichtungen -Versorgung mit Schulen und Sportflächen"* (StEP 1), 25.7.1995

EMPÍRICA, by request of Senatsverwaltung für Stadtentwicklung Berlin (Urban Planning Dept.)

Ausstattung der Berliner Bezirke mit sozialer Infrastruktur 1999 und 2000. Aktualisierter Vergleich. (Infrastructure provision in the Berlin Districts between 1999 and 2000. Up-dated comparative)

**5. GESUNDHEITSEINRICHTUNGEN,  
CENTERS FOR THE HEALTH  
Health Department**

Kategorien, Facilities Categories:

Sprechstundenrum für Ärzte in Gemeinden ohne Praxis: LOCAL CONSULTORY ROOM [CPL]  
Gesundheitszentren (privat): HEALTH CENTERS [CPS]  
Physiotherapie (privat): POLYVALENT CENERS [CPP]  
betriebliche Gesundheitszentren: HEALTH CENTRES COMPANIES[CPM]  
Notfallambulanz/ Rettungsstelle (not existing in G): EMERGENY CENTRES [CPU]  
Krankenhaus Grundversorgung: GENERAL HOSPITALS (CEHG)  
Spezialkrankenhaus: SPECIALIZED HOSPITALS (CEHN)  
Pflegeheim: SOCIO-SANITARY CENTRES (CES-)  
Psychiatrie: MENTAL HEALTH CENTRES (CEM-)  
Drogenbehandlungseinrichtungen: DRUGS TREATMENT CENTRES (CED-)  
Aandere Spezialeinrichtungen: OTHER SPECIALIZED PLACES (CEE-)

Answers:  
Senatsverwaltung für Gesundheit, Umwelt und Verbraucherschutz  
Name: Frau Dr. Engel  
BearbZ.: I F 31  
Dienstgebäude: Oranienstr. 106, 10 969 Berlin  
Zimmer:4.048  
Telefon: 030-9028 (928)-1787  
Fax : 030-9028 (928)-2059  
[Margrit.Engel@senguv.verwalt-berlin.de](mailto:Margrit.Engel@senguv.verwalt-berlin.de)

Referat IF Krankenhauswesen und Krankenhausrecht, Bedarfsplanung, Bauplanung, Finanzierung  
Frau Cordes  
030 9028 1730  
[Poststelle@senguv.verwalt-berlin.de](mailto:Poststelle@senguv.verwalt-berlin.de)  
Oranienstr. 106  
10969 Berlin  
Central phone: (030) 9028-0  
Telefax (030) 9028-2056

On PUBLIC FACILITIES related to HEALTH	
QUESTIONS	ANSWERS
<b>1. How are needs forecast with regard to facilities in your department?</b>	
Do you use any of the <i>Orientierungswerte</i> (OW) / <i>Richtwerte</i> (RW) proposed by experts in the field - such as Borchard or Schröter?	No, we apply our own, always conditioned by resources and only for hospitals.
Is there any departmental regulation that guarantees a minimum quantity of facilities in relation to the total population forecast?	We only have parameters for hospitals, established according to the relationship 0.6 beds/1000 residents.
Is any distinction made in terms of needs and planning between facilities that will be constructed and managed on public land and those that will be located on private land?	No. The German health system is very different to the Spanish. Healthcare is in the hands of occupational health clinics which obtain concessions from hospitals via tenders. Contributors pay for half of the health costs with their salaries. The other half is paid by the government: up to 45% by the <i>Bund</i> and the remaining 5% the <i>Länder</i> .
<b>2. What type or category of facility is forecast for planning?</b>	
In the <i>Flächennutzungsplan</i> F-plan? And in the B-plan?	Hospitals are considered.
Which facilities are planned in the specific <i>Stadtentwicklungspläne</i> or <i>Standortpläne</i> ?	Urban development plans, or activity location plans are not our responsibility.
Do the plans distinguish between facilities planned as public and those planned as private, and the uses allowed for these?	No
<b>3. The categories we believe may be assigned to your department are as follows; if any of those listed are not the responsibility of your department, please state which:</b>	
Sprechstundenraum für Ärzte in Gemeinden ohne Praxis Gesundheitszentren (privat) Physiotherapie (privat) betriebliche Gesundheitszentren Notfallambulanz/ Rettungsstelle (not existing in G) <b>wenn sie zu einem Krankenhaus gehören</b> Krankenhaus Grundversorgung Spezialkrankenhaus, Pflegeheim Psychiatrie Drogenbehandlungseinrichtungen Andere Spezialeinrichtungen	90% of German healthcare is covered by the system of occupational health clinics obtaining concessions, which is therefore public. The remaining 10% is private healthcare. Workers who choose this option do not have anything deducted from their wages to pay for public healthcare.  In order to observe the quality of services granted under concession we have recently created the programme " <i>Qualitätschierung bei Zugelassenen Krankerhausen</i> " through the German municipalities association " <i>Gemeinsam Bundesausschuss, GB-A.</i> "
<b>4. Within the department, is there any census of the facilities available?</b>	
Are accounting lists used to monitor the constructed reality?	Yes, for hospitals.
If a census is available: what type of restrictions/limitations is the department working with? Administrative? Sectoral, specifically created for quantifying these?	Specific data are used, collected in part by other bodies.

**GOVERNING VALUES IN EFFECT IN RELATION TO HEALTH**

There is a Hospital Plan, *Krankenhausplan*, which is used for guideline and governing values. *Centres d'Atenció Primària* or CAP (Primary Healthcare Centres), do not exist in Germany as they do in Catalonia, and the same can be said of *Consultoris Locals* (Local Doctor's Surgeries). Healthcare is structured into offices for general practitioners and specialists. The following step is then the hospital. We should not be surprised, then, that the aforementioned "health plan" only refers to hospitals.

**6. HILFSEINRICHTUNGEN, CENTERS FOR THE ASSISTANCE Sozialhilfe, Betreuung von Familien, Welfare and Family Department**

Kategorien  
Facilities Categories:

Frauen- und Männerhaus: CENTERS/ TEMPORARY HOUSES FOR THE BASIC ASSISTANCE [CRP]  
Einrichtung für Kinder- und Jugendbetreuung, Centers for Childs and Youths: CENTERS FOR CHILDS AND YOUTH [CIJ]  
Kinder- und Jugendwohnheim: HOUSES FOR CHILDS AND YOUTH [RIJ]  
Seniorenzentren: CENTERS FOR THE ELDERLY [CGG]  
Einrichtungen für betreutes Wohnen: RESIDENCES/HOUSES FOR THE ELDERLY [RGG]  
Einrichtungen für die Betreuung von Behinderten: CENTERS FOR THE PHYSICAL AND MENTAL PROBLEMS [CML]  
Behindertenwohnstätten: RESIDENCES/HOUSES FOR THE PHYSICAL AND MENTAL PROBLEMS [RML]  
Reintegrationseinrichtungen für Drogenabhängige, Gefängnisinsassen: RESIDENCES/HOUSES FOR THE LABOR INTEGRATION [CRI]  
Gemeinschaftsgebäude: CENTRES FOR SOCIAL ACTIVITIES [CAC]

Answers:  
Landesamt für Gesundheit und Soziales Berlin (LaGeSo)  
Frau Dr. Dittmar (I C)  
030 9028 2356  
Sächsische Str. 28  
10707 Berlin  
Apartat de Correus 31 09 29  
10639 Berlin  
Tel.:(030) 9012 - 0  
Uwe.Lehmann@SenIAS.Verwalt-Berlin.de

On PUBLIC FACILITIES related to SOCIAL SERVICES	
QUESTIONS	ANSWERS
<b>1. How are needs forecast with regard to facilities in your department?</b>	
Do you use any of the <i>Orientierungswerte</i> (OW) / <i>Richtwerte</i> (RW) proposed by experts in the field - such as Borchard or Schröter?	We outsource them to third parties. Results are then compared with the <i>Bund</i> "League" (State Federation) and evaluated.
Is there any departmental regulation that guarantees a minimum quantity of facilities in relation to the total population forecast?	Facilities for the disabled are not public. No "minimum index" exists in this respect.
Is any distinction made in terms of needs and planning between facilities that will be constructed and managed on public land and those that will be located on private land?	There are no public facilities for the disabled, only private.
<b>2. What type or category of facility is forecast for planning?</b>	
In the <i>Flächennutzungsplan</i> F-plan? And in the B-plan?	No response
Which facilities are planned in the specific <i>Stadtentwicklungspläne</i> or <i>Standortpläne</i> ?	No response
Do the plans distinguish between facilities planned as public and those planned as private, and the uses allowed for these?	There are no public facilities for the disabled.
<b>3. The categories we believe may be assigned to your department are as follows; if any of those listed are not the responsibility of your department, please state which:</b>	
Frauen- und Männerhaus Einrichtung für Kinder- und Jugendbetreuung Kinder- und Jugendwohnheim Seniorenzentren Einrichtungen für betreutes Wohnen Einrichtungen für die Betreuung von Behinderten Behindertenwohnstätten Reintegrationseinrichtungen für Drogenabhängige, Gefängnisinsassen Gemeinschaftsgebäude	We are responsible for "stationary" residential facilities (long-term?) for disabled young people and children, "mobile" and "stationary" residential facilities for adults, and partially "stationary" facilities (workshops, workgroups)G
<b>4. Within the department, is there any census of the facilities available?</b>	
Are accounting lists used to monitor the constructed reality?	Yes.
If a census is available: what type of restrictions/limitations is the department working with? Administrative? Sectoral, specifically created for quantifying these?	We use criteria based on the affected groups themselves.

**GOVERNING VALUES IN EFFECT IN RELATION TO SOCIAL SERVICES**

**Childcare day centres:** Need is quantified using the registrations index. (Comparison of supply based on the formula 1 child = 1 place). Children's Daycare Act (Nursery School Act), Kindertagesbetreuungsgesetz (KitaG), 25.11.1998

**Facilities for young people, publicly owned facilities and publicly promoted, privately owned facilities:** 11.4 places / 100 residents aged 6-25. Stadtentwicklungsplan "Öffentliche Einrichtungen -Versorgung mit wohnungsbezogenen, Gemeinbedarfseinrichtungen" (StEP 2), 25.7.1995

EMPÍRICA, by request of Senatsverwaltung für Stadtentwicklung Berlin (Urban Planning Dept.)

Ausstattung der Berliner Bezirke mit sozialer Infrastruktur 1999 und 2000. Aktualisierter Ausstattungsvergleich. (Infrastructure provision in the Berlin Districts between 1999 and 2000. Up-dated comparative)

Answers:  
Gudrun Abel  
Senatsverwaltung für Integration, Arbeit und  
Soziales  
BearbZ. : I C 33  
Oranienstr. 106  
10 969 Berlin  
telefon: 030-9028-1789  
fax :030-9028-2061  
e-mail: Gudrun.Abel@senias.verwalt-berlin.de

**Gudrun Abel** (I C 33, Dept. for Integration, Work and Social Services):

In charge of quantifying social services facilities for the elderly. She states that the minimum legal base that planning for any old people's home is subject to in Germany is the **Heimmindestbauverordnung (Minimum Regulation for Homes)** which, among other things, establishes some minimum requirements with regard to surface areas. This is a national law which is used to determine current standards.

**There are not many standards relating to homes, as it is a relatively new area.** The construction of German standards has taken into account those of other northern European countries (in particular Finland and Denmark). At the same time, as it is a relatively new area, these standards become more important, as there is not much tradition or experience in planning them.

Needless to say standards will be followed to the letter provided that resources allow it.

Additionally, **the Länder are exhorted to develop spatial standards (relating to surface area) and standards for the technical supply** of public facilities for the elderly - "partially stationary" (day centres?) and "stationary" (full-time?) - within the measures guaranteeing the well-being of the elderly and **in accordance with related laws (PflegeVG, LPflegeEG, PflegEföVO).**

A standards program has been in place in Berlin since 1996 (*Planungsgrundlagen für Baumaßnahmen in geförderten stationären und teilstationären Einrichtungen der Altenhilfe* [Bases for the Planning of Day Centres and Homes], updated in July 1999), which constitutes the foundations of and provides the scale for all types of facilities for the elderly (whether privately funded, publicly funded or both) that receive public money.

[I have paper copies of the standards]

Further information (e.g. regarding regulations) can be found on the SenIAS website: Pflege/Downloads/Landesgesetze und Pflege (*Landespflegeplan*). With regard to the questions about the F-plan and B-plan, we are referred to Department VI B of the Town Planning Department.

Statistics are available - *Bundespflagestatistiks* (national people statistics) - on which the funding of subjects (not objects) is based. The *Land* of Berlin provides funding for people and causes, non-physical elements.

#### GOVERNING VALUES IN EFFECT IN RELATION TO SOCIAL SERVICES

**Facilities for the elderly:** (please see the appendix of STEP2, which includes all data, one of them fundamental:) Housing for the elderly: 8 places/1000 residents over 65; 1 place in a day centre for 0.2% of the population aged over 65.

**Facilities for the disabled:** (please see the appendix of STEP2, which includes all fundamental data:) centres for the disabled, 8 places for every 1000 residents; workshops: 2 places/ 1000 residents.

EMPIRICA, by request of Senatsverwaltung für Stadtentwicklung Berlin (Urban Planning Dept.)  
Austattung der Berliner Bezirke mit sozialer Infrastruktur 1999 und 2000. Aktualisierter Ausstattungsvergleich. (Infrastructure provision in the Berlin Districts between 1999 and 2000. Up-dated comparative)

The EMPIRICA report also includes the governing values for play areas and green spaces:

Children's public play areas	1 m <sup>2</sup> calculable net sports area / resident	Children's public play areas Act, [Gesetz über öffentliche Kinderspielflächen], 15.01.1979
Neighbourhood green spaces	7 m <sup>2</sup> per resident	Berlin Landscape Programme 1994 [Landschaftsprogramm Berlin 1994] (LaPro)
Green spaces linked to housing	6 m <sup>2</sup> per resident	Berlin Landscape Programme 1994 [Landschaftsprogramm Berlin 1994] (LaPro)

In what is concerned to the Centres for the Administration, Security and Protection, there is no department responsible of the public facilities planning, grouped in the following categories:

### 1. CENTERS FOR THE ADMINISTRATION, SECURITY AND PROTECTION

Public Administrations Department,  
Justice Department,  
Interior Department

#### Facilities Categories:

Rathaus/ Gemeindeverwaltung: CITY HALL [AJ]  
Öffentliche Sicherheit: CITY HALL WITH SECURITY AND PROTECTION SERVICES [AJ\_SEG/PRO]  
Wirtschaftsgebäude (Betriebshof, Lagerräume): OTHER MUNICIPAL BUILDINGS [AM], as garages, warehouses...auxiliary buildings.  
Kreisverwaltung: 'COMARCAL COUNCIL' [CC]  
Kreisverwaltung: 'TERRITORIAL SERVICES' [ST]  
Kreisverwaltung: 'TERRITORIAL CENTRES' [CT], (Autonomous Administration delocalization)  
Gerichte: TRIBUNALS AND AUDIENCES [JG]  
Katastrophenschutz, Feuerwehr: PROTECTION SERVICES [PRO]  
Polizei: SECURITY SERVICES [SEG]

In the same way, there is no department responsible of the commercial facilities planning, such as fairs, markets, cooperatives...

Rhode-Mühlenhoff comments that the Department of Science and Technology (the most suitable for that purpose) has in charge to manage all companies –usually public– that will provide this kind of services.

Heidrun Rhode-Mühlenhoff; E-Mail: heidrun.rhode-muehlenhoff@senwtf.verwalt-berlin.de  
Senatsverwaltung für Wirtschaft, Technologie und Frauen -Unternehmensbeteiligungen, Anstalten des öffentlichen Rechts-  
Referatsleiterin III B  
Martin-Luther-Str. 105, 10825 Berlin. Telefon: (030) 9013 - 8646

### 7. KOMMERZIELLE EINRICHTUNGEN, CENTERS FOR THE COMMERCE

Commerce Department

#### Kategorien, Facilities Categories:

Messe, Ausstellung: FAIR PLACES [RE]  
RURAL COOPERATIVES [COO]  
Schlachthaus (privat), Slaughterhouses, SLAUGHTERHOUSES [ES]  
Fischkooperativen (privat): FISH COOPERATIVES [CON]  
Märkte (privat): MUNICIPAL MARKETS [ME]  
Großmärkte (privat): WHOLESALE MARKETS [LLO]

Referat | C 22. Senatsverwaltung für Stadtentwicklung (SenStadt):  
Frau Karin Rubel  
karin.rubel@senstadt.verwalt-berlin.de  
030 9025 1719

With regard to places of worship, as with Catalonia there is no department with jurisdiction over categories of religious facilities. In the Town Planning department we have, however, found a plan for cemeteries *Friedhofsentwicklungsplan (FEP)*, attached in the APPENDIX. A **guideline value of 2m<sup>2</sup> of cemetery per resident is proposed.**

### 8. RELIGIÖSE EINRICHTUNGEN, CENTERS FOR THE CULT (Any Department)

#### Facilities Categories:

Friedhof: CEMETERY [CM]  
Krematorium: TANATORIUM [TN]  
Kirche (christlich): CHURCH/ PARISH [PR]  
Kapelle (christlich): SANCTUARY [SA]  
Einrichtungen (andere Religionen): CULT PLACE [LC]  
Haus für religiöses Leben, House: RESIDENCE FOR THE RELIGIOUS LIFE [INS]  
Bischofssitz: BISHOP'S PLACE [BI]

Finally, for the categories of transport, the Town Planning department refers us to a "transport plan" - *Stadtentwicklungsplan Verkehr* - that does not, however, contain guideline values.

Dipl.-Ing. Horst Wohlfarth von Alm (Gruppenleiter) e-mail: Horst.Wohlfarth-von-Alm@senstadt.verwalt-berlin.de  
Integrative Verkehrsplanung Berlin. Senatsverwaltung für Stadtentwicklung  
Am Köllnischen Park 3. 10173 Berlin  
Tel.: (030) 9025 - 1575

### 9. TRANSPORTEINRICHTUNGEN, CENTERS FOR THE TRANSPORT (Department of Territorial Policies and Public Works )

#### Kategorien, Facilities Categories:

Zughaltstelle: TRAIN STATION [TR]  
Bushaltstelle: BUS STATION [BUS]  
Hubschrauberlandeplatz: HELIPORT [HELI]  
Flugplatz: AERODROME/AIRPORT [AER]  
Flugschule: TRAINING AIRPORT [VOL]

We are yet to see whether the standards of the departments themselves (RW) coincide with those proposed by the experts (OW), a comparison we shall leave for future study. Equally, it would also be worth investigating why certain standards, in particular social standards, are protected by law. We would also like to know whether it is the standard that is formulated first or the regulation that prescribes it.

What has become clear following our tour through the facilities planning of the German government **is the existence of per capita - and/or per user - values for facility categories that we could call essential.**

Thus, **all types of schools, sports facilities, children's facilities, facilities for young people, the elderly, the disabled, as well as libraries and music schools, and schools in general have a minimum guarantee protected by the plans.**

None of these facilities take into account social profiles, the idiosyncrasies of the municipality...**they are simply universal, very similar to those proposed in Chapter 4, which we have called basic facilities.**

What is illustrated by the German model, through the limitations of the plans, is the reinforcement of the possibilist approach of **demanding regulated or obligatory surrenders of land only for these quantifiable and universal categories of facility, leaving the forecasting of the remaining variable and circumstantial categories at the mercy of the needs and possibilities of each individual municipality.**

Finally, by way of conclusion, let us return to what we said at the very beginning: **public assets, endangered by the growing pressure the private sector is exerting on the government, may be safeguarded, at least those assets which are basic and universal, through the introduction of the aforementioned facility categories and their corresponding surrenders within the legal framework of German town planning.**

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