

Global crisis, spatial justice and the planning systems: a European comparison

*Original*

Global crisis, spatial justice and the planning systems: a European comparison / JANIN RIVOLIN YOCCOZ, Umberto. - ELETTRONICO. - (2016), pp. 1-20. (Intervento presentato al convegno IV World Planning School Congress tenutosi a Rio de Janeiro nel 3-7 July 2016).

*Availability:*

This version is available at: 11583/2651974 since: 2016-10-06T12:18:15Z

*Publisher:*

Global Planning Education Association Network

*Published*

DOI:

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Rio de Janeiro, 3-7 July 2016

## **GLOBAL CRISIS, SPATIAL JUSTICE AND THE PLANNING SYSTEMS: A EUROPEAN COMPARISON**

Track 4. Spatial Policies and Land Use Planning

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### **Abstract**

Inadequate regulation of spatial development is at the origin of the current global crisis and increases, in years of crisis, the unequal distribution of global wealth. The importance of the related risks draws attention to the systems of spatial governance and planning, through which States regulate the spatial development. In Europe, the countries most affected by the crisis have spatial planning systems that are traditionally based on the preventive assignation of rights for land use and development through the plan. The systems of the States that are less affected by the crisis have established rather that new rights for land use and for spatial development are assigned only after the public control of development projects and their distributional effects. More generally, the fact that the former model is still widely prevalent in the world may help to explain the global scale and the duration of the crisis. Despite the evidence that some models can operate better than others, the improvement of spatial planning systems is however limited by their complex nature of “institutional technologies”. In such a context, planners are especially responsible for the increase of public awareness concerning the role of spatial governance in economic and social life.

### **Keywords**

crisis, space, governance, planning, systems, conformative, performative, Europe.

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\* Parts of this paper are derived from contributions developed previously by the author (Janin Rivolin, 2008, 2012, 2016; Knieling et al., 2016). The author is grateful to Alys Solly for her linguistic advice.

## Introduction

The political and technical practices used to order space play an essential role in all societies (Sassen, 2006). Any social and economic activity needs a space to take place and, through the ordering of space, can therefore be promoted, addressed or, if necessary, prevented. Moreover, for their deep involvement in the economic and social life, such practices contribute to shape the citizenship in places concerned by their action (Mazza, 2015). Although, for the reasons given, the origin of the spatial governance processes and of spatial planning practices is lost in the mists of time, their contemporary characters took shape with the establishment of the modern State. Every State in the world provides constitutional functions of spatial governance, thus setting also the conditions for the technical development and social affirmation of spatial planning in its institutional context. By virtue of constitutional powers, States exert the public control of spatial development through respective “systems” of spatial governance and planning. Implying the comprehensive action of legal devices, administrative bodies and technical cultures, these can be described as complex «institutional technologies» (Janin Rivolin, 2012) that allow and rule the spatial development in each institutional context, with the resulting consequences for the life of entire cities, regions and countries.

Due to its long history and the most recent events, Europe has a variety of characteristics, which is also reflected in the different ways of ordering space through the spatial governance and planning. Foremost, the European continent is characterized by a very large number of independent States (almost a quarter of the world’s nations) in relation to its total land area, which is the smallest of the continents, with Oceania, amounting to less than a quarter of America and Asia and about one-third of Africa (Figure 1). However, this can hardly suggest the extreme diversity of the European territory, which is made more evident by the wide variety of environments, landscapes, cultures and languages (Dubбини, 2002), consolidated in modern times within relatively circumscribed spaces of territorial sovereignty, the States.



**Figure 1: Continental distribution of the 206 States of the world** (source: it.wikipedia.org).

The particularity of Europe is recognized also for the existence of the European Union (EU), a supranational organization of currently 28 member States (Figure 2) that, however, does not

hold formal powers of spatial governance and planning (Faludi, 2002; Janin Rivolin, 2010; Zonneveld et al., 2012; Schmitt & Van Well, 2016). In promoting “informal” spatial policies, the process of EU integration has nevertheless pushed for almost 30 years the comparative study of systems, cultures and practices of spatial governance and planning in the European States (Davies et al., 1989; Healey & Williams, 1993; Newman & Thornley, 1996; CEC, 1997; Balchin et al., 1999; Larsson, 2006; ESPON, 2007; Janin Rivolin, 2008; Nadin & Stead, 2008, 2009; Knieling & Othengrafen, 2009; Muñoz Gielen & Tasan-Kok, 2010; Nadin, 2012; Reimer et al., 2014). The results of this long-term comparison can be valuable to understand how different systems of spatial governance and planning may have different impacts on the current global crisis, especially with regard to its effects in terms of «spatial justice» (Lefebvre, 1968; Harvey, 1973; Soja, 2010). One assumption in support of this argument is the evidence that «[i]n its causes and consequences, the global financial crisis of 2008 was fundamentally an urban phenomenon» (Siemiatycki & Siemiatycki, 2016, p. 1258). Another is the «evidence that the perception of the impact of the crisis on planning has been different in different regions of Europe» (Kunzmann, 2016, p. 1317).



**Figure 2: Current 28 Member States of the European Union (in color) with candidate countries and potential candidate (in grey) (source: europa.eu).**

Although the functions of a spatial governance and planning system can be generalizable (e.g. Healey & Williams, 1993; Mazza, 2003), these comparative studies have shown that systems

developed over the last century in Europe operate in different ways, producing different specific and overall outcomes by virtue of the legal, technical and cultural characteristics that are attributed in various institutional contexts. With particular respect to the modalities of assigning rights for land use and for spatial development, the course of history has delivered in the world and within Europe a variety of models, which are discussed and compared in this paper. Without disregarding the many variables involved in such a complex issue, the proposed comparison is aimed at discussing how different systems of spatial governance and planning can affect differently the economic, social and even political life of a country. This may contribute to explain some main differences in the long run, and to suggest why, at least in Europe, some countries are suffering the current crisis more strongly than others.

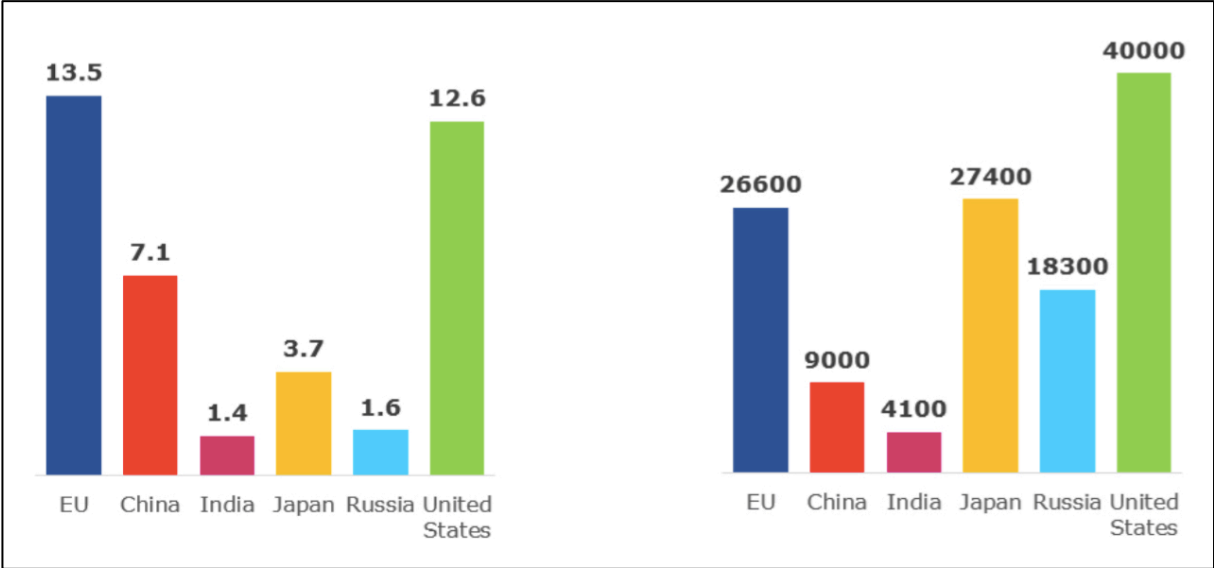
The next section highlights the crucial role of space in determining the unequal effects of the current crisis and shows how inequality is distributed differently in the EU countries. The following section illustrates the development of comparative research on spatial governance and planning systems in Europe. On this basis, the section after distinguishes the features and effects of the so-called “conformative”, “performative” and “neo-performative” models of spatial planning systems, which are currently in operation throughout Europe. A further section will explore the reasons and difficulties of reforming the systems of spatial governance and planning, despite the evidence that some models can operate better than others. The last section rounds off the contribution by summing up the main findings.

## **Space and the effects of global crisis in Europe**

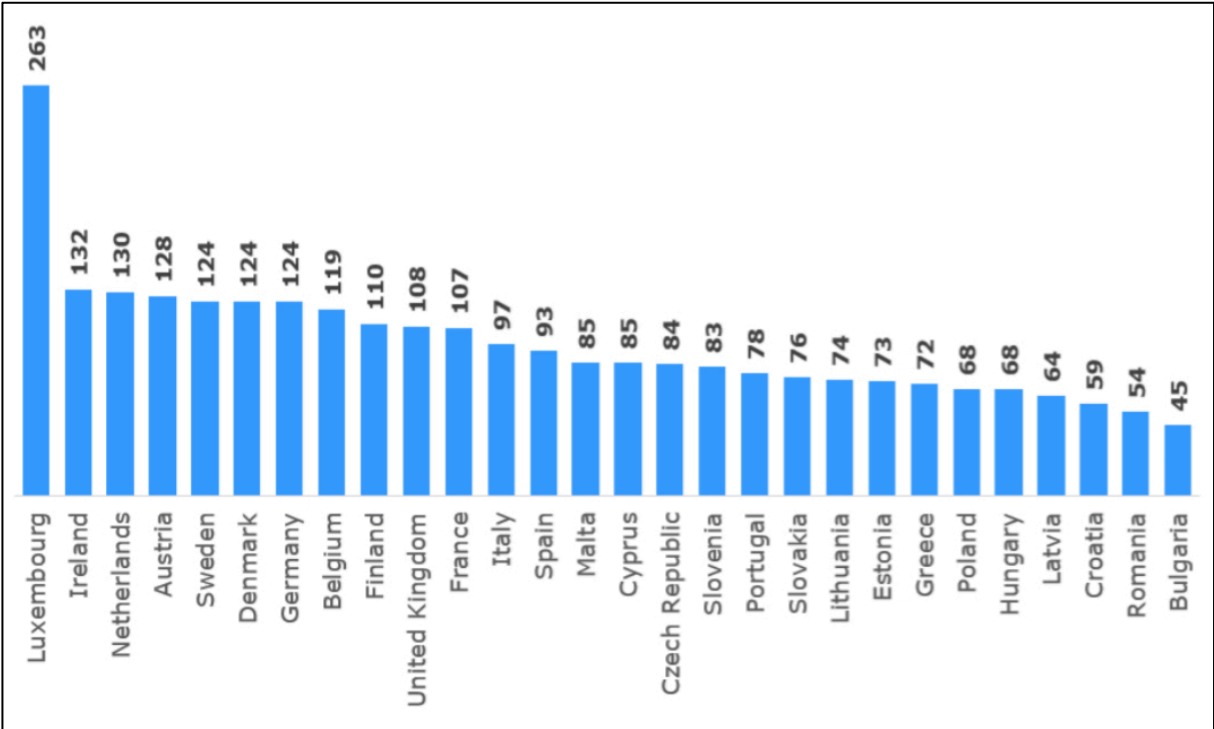
Since modernity, the role of space in economic and social life «is less and less neutral, more and more active, both as instrument and as goal, as means and as end» (Lefebvre, 1992, p. 411). And more and more this has to deal with politics, since a «politicized space destroys the political conditions that brought it about», and often «the management and appropriation of such a space run counter to the state» (*ibid.*, p. 416). This has become even more evident under the cultural conditions of postmodernity, insofar as space can be more “flexibly” exploited for purposes of power (Harvey, 1989). Indeed, no one should forget that the current global crisis, originating from the US subprime mortgage crisis in 2008, was triggered by a generalized financial speculation on the housing market under the lack of adequate regulations (Zandi, 2010; TFCIC, 2011). Moreover, under the lack of adequate regulations, urban markets are worldwide the “great space” through which the crisis is being metabolized through privatizing gains and socializing losses (Forrest & Yip, 2011; Fujita, 2011; Harvey, 2012).

According to Thomas Piketty (2014), one effect of the current crisis is that in many countries the capital (i.e. wealth in the form of real estate property and financial assets) is growing now at a faster pace than the economy (more precisely, with a growth rate of 4-5% vs. 1-1.5% per year). The income produced by capital tends to be concentrated in the hands of a small group of people, while labor income is dispersed through the entire population, although with notable contractions and the consequent use of social welfare and public spending. Considering that wage growth depends on the growth of the economy as a whole, if the latter is slower than the increase of capital income, the unequal distribution of wealth appears destined to be screwed into a spiral of very serious growth. Aside from suggesting the solid interests in favor of the continuation of the crisis, Piketty’s analysis casts ominous shadows beyond its technical findings, as history has shown that, beyond certain limits, social inequality ends up undermining the most solid democracies (Fukuyama, 2011); a risk that,

seventy years after the second world war, has apparently become topical again even in wealthy Europe (Regan, 2013).



**Figure 3: Size of economy (GDP in trillions euro) and wealth per person (GDP per person) in the main economies of the world, 2013** (source: europa.eu).



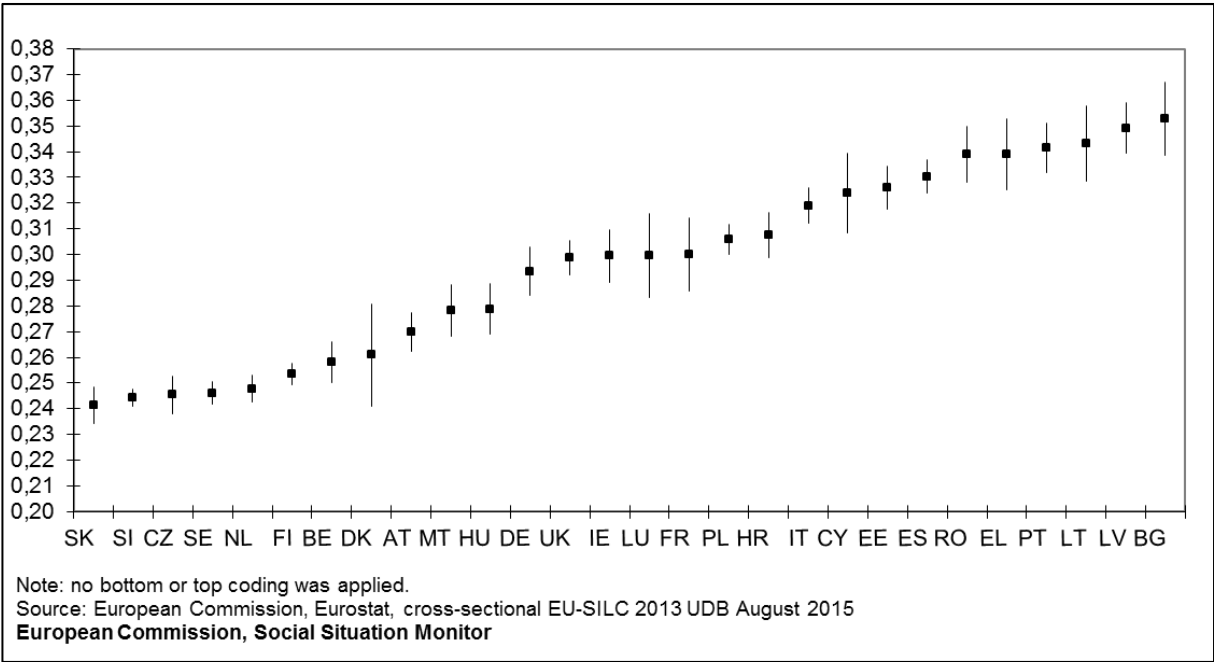
**Figure 4: GDP per inhabitant in the 28 EU member States in 2014: index where the average is 100** (source: europa.eu).

Although Europe is considered as a whole one of the continents most developed and richest in the world, the high diversity of the States that compose it is confirmed by differences of indicators of productive capacity and of well-being. According to the International Monetary Fund (IMF, 2016), the distribution of the gross domestic product (GDP) in the world in 2015 varies in Europe between the 4<sup>th</sup> position of Germany and the 154<sup>th</sup> of Montenegro, and GDP per capita varies between the 2<sup>nd</sup> position of Luxembourg and the 104<sup>th</sup> of Kosovo. While the

whole EU competes with the main economies of the world (Figure 3), the level of national wealth is highly variable even within its borders (Figure 4).

Southern European countries are the EU member States that have been most affected by the current crisis, and those where the unequal distribution of wealth and its increase are more evident. «PIGS» is an offensive acronym used in economics and finance, popularized during the European sovereign-debt crisis of the late 2000s, which refers to the economies of Portugal, Italy, Greece and Spain, four EU member States of southern Europe that were unable to refinance their government debt or to bail out over-indebted banks on their own (Dawber, 2015). Apart from the most known and worrying case of Greece’s impoverishment (Mitsopoulos & Pelagidis, 2011), the latest official studies concerning Italy show that from 2007 to 2013 the net wealth of households decreased from 9,500 to 8,728 billion euro (2013 prices), with a drop of over 8% (Banca d’Italia, 2014, p. 5). In the same years, the concentration of net wealth grew so much that in 2012 the richest 10% of the population owned 46.6% of the wealth (compared to 41% twenty years ago).

The most widely used measure for income inequality is notoriously the “Gini coefficient”, a number between 0 and 1, where 0 corresponds with perfect equality (everyone has the same income) and 1 corresponds with perfect inequality (one person has all the income and everyone else has zero income). A recent comparison within the EU shows that southern European countries – such as Cyprus (CY), Greece (EL), Italy (IT), Portugal (PT) and Spain (ES) – are among those characterized by the highest values of the Gini coefficient (Figure 5). The others are the post-Soviet countries of eastern Europe – Bulgaria (BG), Estonia (EE), Hungary (HR), Latvia (LV), Lithuania (LT), Poland (PL) and Romania (RO) –, whose socio-economic conditions of course are strongly influenced by their different political regime in the recent past and the sudden transition to a market economy after the 1980s. Moreover, the analysis of income inequality measured by the Gini coefficient across the EU countries in the period 2008-2012 «showed high levels of inequality across southern Europe», while «there is no dominant pattern in central- and northern-European countries» (Di Falco, 2014, p. 2).



**Figure 5: Gini coefficients and 95% confidence intervals for disposable household income in EU Member States, 2012 income year** (source: ec.europa.eu).

In light of the spatial valence of the crisis' unequal effects, it is legitimate to ask how the systems of spatial governance and planning regulate the distribution of gains and losses in spatial development. This may «offer insights regarding how the planning apparatus in various different urban contexts might have been leveraged or manipulated in the run-up to the financial crisis» (Siemiatycki & Siemiatycki, 2016, p. 1259). The relevant suffering of southern European countries and cities (Knieling & Othengraphen, 2016; Ponzini, 2016) leads one to wonder, in particular, whether their systems counteract or rather favor the local effects of global crisis. If the complexity of the matter and the current lack of more specific analyses exclude the establishment of certain and exhaustive correlations between the operation of spatial governance and planning systems and the wealth distribution in each country, one can at least compare the different mechanisms through which different types of system manage in different ways the social distribution of profits and losses in spatial development. Such comparison is possible within Europe, thanks to international comparative research in the field of spatial governance and planning, which has matured in the last decades in coincidence with the EU integration process.

## **The evolving comparison of spatial planning systems in Europe**

The first explicit «comparative study» of spatial planning systems in Europe (Table 1) was part of a survey on public control of the spatial development, commissioned by the British government in the late 1980s (Davies et al., 1989). Focused on five States of northwestern Europe – namely Denmark, France, the Netherlands, the United Kingdom (particularly England) and West Germany –, this study adopted the “legal basis”, in more detailed terms of legal certainty provided by the system, as the sole analytical criterion. It led to distinguish two broad “legal families” of planning systems: a) the Continental family, based on the legal traditions of Roman law, the “Napoleonic Code” and the Scandinavian law, merged into the modern age in the juridical model of civil law; and b) the English family, inspired by the juridical model of the common law. In particular, while the continental legal systems «seek to create a complete set of abstract rules and principles in advance of decision-making [...], the English common law system offers far fewer rules. Government does not provide a complete set of legal rules in advance, rather the law has been built up case-by-case as decisions of the courts are recorded» (Nadin & Stead, 2008, p. 38).

A few years later, other British authors have tried to apply the same analytical criterion to the planning systems of as many as 14 European states (Newman & Thornley, 1996), taking as reference the models of legal system defined by the most known international studies of comparative constitutional law. This resulted in the distribution, rather automatic, of the systems analyzed in four families – i.e. Germanic, Scandinavian, Napoleonic, British – with the addition, in the absence of cases analyzed, of the east-European family or “in transition” from the Soviet influence. This initial comparative approach however proved to have various limitations, namely the abstraction of the real variety of the planning practices, and a tendency to overemphasize the role of the legal and administrative structures. Other analyses began therefore to consider further contextual variables, like property markets' behaviors as observable in representative cities (Berry & McGreal, 1995).

Also the *EU Compendium of Spatial Planning Systems and Policies* (CEC, 1997), one of the first EU attempts to investigate the field of spatial governance and planning, adopted a more complex and sophisticated approach in order to position the planning systems of the then 15



EU member States. Here the “legal family” context is one of seven «interrelated factors» that were used to analyze and distinguish planning systems, namely (*ibid.*, p. 34):

- 1) the scope of the system;
- 2) the extent and type of planning at national and regional levels;
- 3) the locus of power;
- 4) the relative roles of public and private sectors;
- 5) constitutional provisions and administrative traditions;
- 6) the maturity or completeness of the system;
- 7) the distance between expressed objectives and outcomes.

<b>Davies et al, 1989 [1]</b>		<b>Common law</b> England		<b>Napoleonic codes</b> DK, DE, FR, NL	
<b>Newman &amp; Thornley, 1996</b>	<b>Nordic</b> DK, FI, SE	<b>British</b> IE, UK	<b>Germanic</b> AT, DE	<b>Napoleonic</b> BE, FR, IT, LU, NL, PT, ES	<b>East European</b>
<b>CEC, 1997 [2]</b>	<b>Comprehensive integrated</b> AT, DK, FI, DE, NL, SE	<b>Land use regulation</b> IE, UK (+ BE)		<b>Regional economic</b> FR, PT (+ DE)	<b>Urbanism</b> GR, IT, ES (+PT)
<b>Farinós Dasi, 2007 [3]</b>	<b>Comprehensive integrated</b> AT, DK, FI, NL, SE, DE (+ BE, FR, IE LU, UK)	<b>Land use regulation</b> BE, IE, LU, UK (+ PT, ES)		<b>Regional economic</b> FR, DE, PT, (+ IE, SE, UK)	<b>Urbanism</b> GR, IT, ES
	BG, EE, HU, LV, LT PL, RO, SL, SV	CY, CZ, MT		HU, LV, LT, SK	CY, MT

Notes:

1. Davies et al. do not give a specific name to the two groups but contrast England and other systems based on their legal frameworks.
2. The EU Compendium identifies ‘ideal types’ of planning traditions. Each country may exhibit combinations of ideal types in different degrees. The ideal types are dominant in the countries indicated here.
3. The ESPON project took the EU Compendium traditions as a starting point and examined how countries, including the transition states of central and eastern Europe, were moving between them.

**Table 1: Most known typologies of spatial planning systems in Europe** (source: Nadin & Stead, 2009).

This led to the identification of four “ideal types” of planning system existing in the EU – namely «regional economic planning approach», «comprehensive integrated approach», «land use management», and the «urbanism tradition» (*ibid.*, pp. 36-37) – representing approximate reference models to guide a deeper understanding of the concerned systems. Despite a considerable caution in judgments, the EU compendium makes, albeit implicitly, some first assumptions of comparative evaluation of systems, which are somehow suggested by the formulation of the last two “factors” that are listed above. At a distance of a dozen years, Nadin and Stead (2009) – the first was one of the compendium’s authors – have revealed the summary of evaluations that emerges from the intersection of the seven factors with the four ideal types (Table 2). In particular, this summary highlights – even if the compendium was careful not to make explicit these conclusions – the lower maturity of system and the wider distance between goals and outcomes (or lesser effectiveness) of the “urbanism tradition” characterizing the southern European countries.

The four ideal types of the EU compendium were then applied by a later EU research project (ESPON, 2007), which aspired to update the analysis also in light of the EU enlargement to further 12 member States, with very questionable results (Nadin & Stead, 2008, pp. 39-40). Overall, progress and challenges in this nascent field of comparative analysis have mainly served to emphasize the need to define the “nature” of a system of spatial governance and planning for a better understanding. Further reflections on the importance of the «planning cultures» in guiding the operation of the systems (Sayal, 2005; Knieling & Othengraphen,

2009) and on the final outcomes of the systems' action (Janin Rivolin, 2008; Muñoz Gielen & Tasan-Kok, 2010) have thus led to more advanced methodological considerations (Nadin, 2012) and to more careful comparative analyses (Reimer et al., 2014).

	Legal basis	Scope of planning	Scale of planning	Locus of power	Public or private	Maturity of system	Distance between goals and outcomes
Regional economic planning	Mixed	Wide	National planning	Centre and local	Public	Mature	Mixed
Comprehensive integrated	Mixed	Wide	Multi-level planning	Mixed	Public	Mature	Narrow
Land use management	Discretion	Narrow	Local	Centre	Mixed	Mature	Narrow
Urbanism	Code	Narrow	Local	Local	Mixed	Immature	Wide

**Table 2: Traditions and criteria from the EU Compendium of Spatial Planning Systems and Policies** (source: Nadin & Stead, 2009).

In the evolving debate, the idea that spatial governance and planning systems are «institutional technologies», developed in the course of history in order to allow the constituted public power to assign the individual rights for land use and for spatial development (Janin Rivolin, 2012), can be of particular value as regards what is discussed here. A technological approach, albeit aware of the institutional nature of the processes in question, focuses on the overall effectiveness of the system in relation to expected results. In the case under discussion, therefore, it helps to compare how systems based on different mechanisms of assignment of the rights for land use and for spatial development can achieve different effects in the social distribution of profits and losses in spatial development. In this respect, the development of comparative research has led to recognize that – excluding the “exception” of the eastern countries previously subjected to the influence of the Soviet regime (Balchin et al., 1999, pp. 161-192; Adams et al., 2011; Maier, 2012) – at least three models have been historically established in modern Europe, which are discussed and compared in the next section.

### **Three models of rights assignment for spatial development**

#### *The “conformative” model affecting southern Europe*

The institutionalization of modern spatial governance and planning put down roots in the phase of industrial and bourgeois revolution and the formation of modern States (Taylor, 1998; Hall, 2002). In the past century, particularly, the pressing needs of greater urbanization, of Fordist development and of post-war reconstruction have supported the establishment of a model for the public control of space based on the ideals of hierarchy (top-down relations between planning tiers) and of dirigisme (State-led implementation of plans) almost everywhere in the world. The universal success of the model, which has resulted in a rapid and pervasive consolidation throughout the whole western world, depends precisely on its

operating through the progressive assignation of rights for land use and for spatial development, as the main legal effect of urban plans. In times of greatest change and uncertainty, this supplied first and foremost “certainty”: the system ensured both the investment certainties of owners and developers, and the ideological certainties of policy makers, public officials and reformist planners, convinced by the rampant welfarist paternalism that the State, as the unique holder of the collective interest, could thus “conform” any project of property development to its own strategy.

This traditional model of a spatial planning system, still largely prevailing in the world and applied in southern European countries, can be labeled as the “conformative” model, as it pursues literally a «correspondence in form, manner, or character» or actions «in accordance with some specified standard or authority» (Janin Rivolin, 2008, p. 168). It pivots on a “preventive” binding zoning of a comprehensive urban area, which implies in general that:

- a) a public spatial strategy is transposed in a binding plan, which assigns rights for land use and for spatial development;
- b) based on this rights assignation, the delivery of building permits is subject to a control of the proposed development projects in terms of conformity (whether they conform to the plan);
- c) in cases in which projects, albeit not conforming to the plan, are considered for any reason preferable to the existing assignation of rights, a new plan (or a substantive variation of the existing one) is needed in order to assign new rights for land use and spatial development.

Greece, Italy, Spain and, to some extent, France and Portugal have shown a structural path dependence on their «urbanism tradition», characterized by «a strong architectural flavour and concern with urban design, townscape and building control», and by regulations «undertaken through rigid zoning and codes» (CEC, 1997, p. 37). But this allegiance to the traditional model of spatial governance and planning has proven to be deleterious over time in terms of «public-value capturing», which means «the level at which public bodies manage to make developers pay for public infrastructure – infrastructure provision, public roads and space, public facilities and buildings, affordable and social housing – and eventually capture part of the economic value increase» (Muñoz Gielen & Tasan-Kok, 2010, p. 1097).

For if the public authorities claim to rule the spatial ordering through the “preventive” overall assignment of rights of land use and of spatial development (for the effect of zoning plans and variants), the first overall outcome of the model is the progressive generation of property incomes. While the privatization of profits derivable from the spatial development is thus guaranteed (even in the absence of development), this is not the case of the social loss compensation that may arise from development. The public control of respective projects at the time of issuing the building permit is in fact reduced to mere formal aspects of conformance with the plan. In point of law, a permit to build in conformity with the plan, even if the project proves to imply unexpected social costs, cannot be denied. While spatial development for private interests is thus incentivized, the public control of development projects is reduced, despite more or less genuine expectations, to a mere “administrative formality”, since a conformance control has little or no possibility of improving projects in the public interest apart from their formal coherence with the plan.

But that is not all. The social losses induced by the conformative model derive also from the difficulties to renew public strategies of development at any scale, since their spatial

translation for the local implementation does not escape the preventive allocation of new property rights, with the consequences just summarized. Overall, the difficulty of public strategies and the reduction of development control to an administrative formality are a reason for a general decrease of political and technical accountability in spatial planning, with the possible creation of decision-making contexts open to patronage and corruptive practices (Vettoretto, 2009). And the circumstance that spatial strategies at whatever scale once agreed for local implementation are transfigured by what is illustrated above tends finally to trigger a vicious circle in the whole spatial governance process, with serious consequences in the progressive design of citizenship.

Ultimately, the spatial planning systems that regulate the spatial ordering practices in southern European countries, still strongly impregnated with their “urbanism tradition” and the cult of preventive binding zoning as a guarantee of the public interest, are shown in fact to condition the public strategies of development to the advantage of the most relevant private interests. There are reasons to suspect therefore that, especially in these years of crisis, their operation may have contributed to boost – rather than alleviate – the effects of progressive social inequality, accelerating the process of privatization of profits and socialization of losses in the spatial development. Although the type of system that characterizes the southern European countries continues to be the most widespread in the world, however, it is not the only possible model.

### ***The British “performative” model***

As explained above, one remarkable price paid in exchange for the certainty afforded by the conformative model was the “rigidity” of public strategies, prevented in particular by the progressive creation of binding rights on land and of additional property incomes. Based on the juridical tradition of common law, the United Kingdom reacted early to this problem with the 1947 Town and Country Planning Act. This law put the right to build in the hands of the Crown (i.e. the State) and established that «the development plan did not of itself imply that permission would be granted for particular developments simply because they appeared to be in conformity with the plan»; rather «in granting permission to develop, local authorities could impose “such conditions as they think fit”» (Cullingworth & Nadin, 2002, p. 93). As a consequence, in the UK «[a]ll the owners were thus placed in the position of owning only the existing (1947) use rights and values in their land» (*ibid.*, p. 21), and the British spatial planning system became «fundamentally a discretionary system in which decisions on particular development proposals are made as they arise, against the policy background of a generalised plan» (*ibid.*, p. 92). The new system was completed by the 1968 Town and Country Planning Act, assigning to structure plans the provision of strategic orientations for development and to local plans (non-mandatory and concerning only specific areas) the provision of detailed guidance on land use. Despite some subsequent changes, «[t]he essential features of the 1968 system are still in place today» (*ibid.*, p. 93; Nadin & Stead, 2014).

This different type of spatial planning system, established in the UK (especially England) and in some Commonwealth countries since the post-war period (Booth, 2007), can be labeled as the “performative” model by virtue of its distinct address to «the execution of an action» or «the fulfilment of a claim, promise, or request» (Janin Rivolin, 2008, p. 168). It is based on indicative and non-binding zoning for the comprehensive urban area, which means in general that:

- a) a public spatial strategy is transposed into a non-binding plan, i.e. not having juridical implications for the assignation of rights for land use and for spatial development;
- b) for this reason, the delivery of building permits is subject to control and negotiation of the proposed development projects in order to ensure their performance towards the plan (i.e. their capacity to perform the public strategy);
- c) new rights for land use and for spatial development are assigned contextually with the possible delivery of the building permit.

Although it may seem paradoxical, removing from the spatial plan the power to establish rules that are legally binding does not weaken, but rather strengthens, the action of public authorities. Without legal obligations, the public authority manages in fact to reserve the right to assign new rights only to those projects that have been checked – and possibly improved, through control devices – in their ability to pursue (or “perform”) the spatial strategy. In this model, unlike the previous one, the «developmental» and «regulatory» functions of the spatial planning system (Healey & Williams, 1993, p. 702) are therefore well separated between the activities of spatial planning and of development control. As a matter of fact, in the UK «the main substance of the planning system is administered by governmental profession planning officers, either within forward planning teams (responsible for preparing planning policies) or development control teams (responsible for determining applications for planning permission by individuals and organisations)» (Tewdwr-Jones, 1996, p. 1).

With the passing of time, while the urban regeneration needs have taken over on the large urban expansions, the performative model seems to have ensured greater “flexibility” to public action of spatial governance. On the other hand, uncertainty, discretionary decisions and higher administrative costs are the limitations complained about most frequently in the case of the British system (Tewdwr-Jones, 1999; Booth, 2007). The loss of certainty supplied by the original model is complained about mainly by property owners and developers, but also often by planners, whose choices and behaviors – deprived from a “legal” power – are more exposed to political and social judgment.

### ***The spread of a “neo-performative” model in north-western Europe***

More interestingly, despite their juridical regime of civil law and the constitutional linkage between land ownership and right to build (as opposed to the United Kingdom), some European countries have experienced over time the need to reform their spatial planning systems in order to pursue the effects of the performative model. The evidence of decision-making difficulties in growing societal complexity (Dahrendorf, 1968; Pressman & Wildavsky, 1973), on the one hand, and the Fordism crisis, the explosion of globalization and the consequent processes of spatial reorganization (Harvey, 1989; Amin & Thrift, 1994), on the other, have indeed highlighted further the limits of the conformative model of spatial governance and planning. The difficulty of plan implementation in the context of reconciling multilevel collective strategies to a growing plurality of local and individual projects of spatial development has been faced through substantial reforms in the north-western European countries – for instance Denmark, Germany, Sweden and the Netherlands – favored perhaps by their traditional «comprehensive integrated approach» to spatial planning (CEC, 1997, pp. 36-37).

Sweden has tried early on to emulate the UK in establishing a spatial planning system that distinguishes, at the urban level, between the “general plan” (*översiktsplan*), mandatory but

not legally binding, and the “detailed plan” (*detaljplan*), legally binding but optional for some limited areas (Lundström et al., 2013). Also in Germany, as confirmed with the reforms that followed the country’s reunification in the 1990s, the “zoning plan” (*F-plan*) is binding on the administrative activities but has no legal value on property. The legally binding tools on the land use are the so-called “building plans” (*B-plan*), which cover only some specific areas of the municipal territory that are generally indicated by the F-plan (Schmidt, 2009). In Denmark, the 2000 Planning Act introduced the concept of «municipal planning strategies», which meant that «the scope of planning at the municipal level was formally extended beyond its traditional focus on the coordination of land-use questions and the management of urban development to encompass more pro-active and strategic modes of planning» (Damsgaard, 2014, p. 48). Despite the formal rigidity of the Dutch system and criticism on more recent reforms (Buitelaar et al., 2011), in fact, municipalities have been allowed for a long time «to delineate the boundaries of the plan area» without «no legal prescription [...] to determine when a land-use plan should be approved in relation to the rest of the development process» (Muñoz Gielen & Tasan-Kok, 2010, p. 1121). This has resulted in «a collaboration between private and public actors [...] with arrangements about the building programme, the urban design as well as phasing of the various aspects of the area development, supported by a land account, upon which the plan would ultimately be turned into a legally binding land-use plan» (Buitelaar & Bregman, 2016, p. 1287).

A third type of spatial planning system can be thus labeled as a “neo-performative” model insofar as, while continuing to be based on binding zoning, it has neutralized in one way or another the “preventive” legal effectiveness of the plan. Rather, as discussed for the British model, new spatial development rights are assigned as a “final balance” after development projects (at least the main ones) have been negotiated, and thus controlled in detail by the public authority before that plan has assumed the force of law. Therefore, in this case:

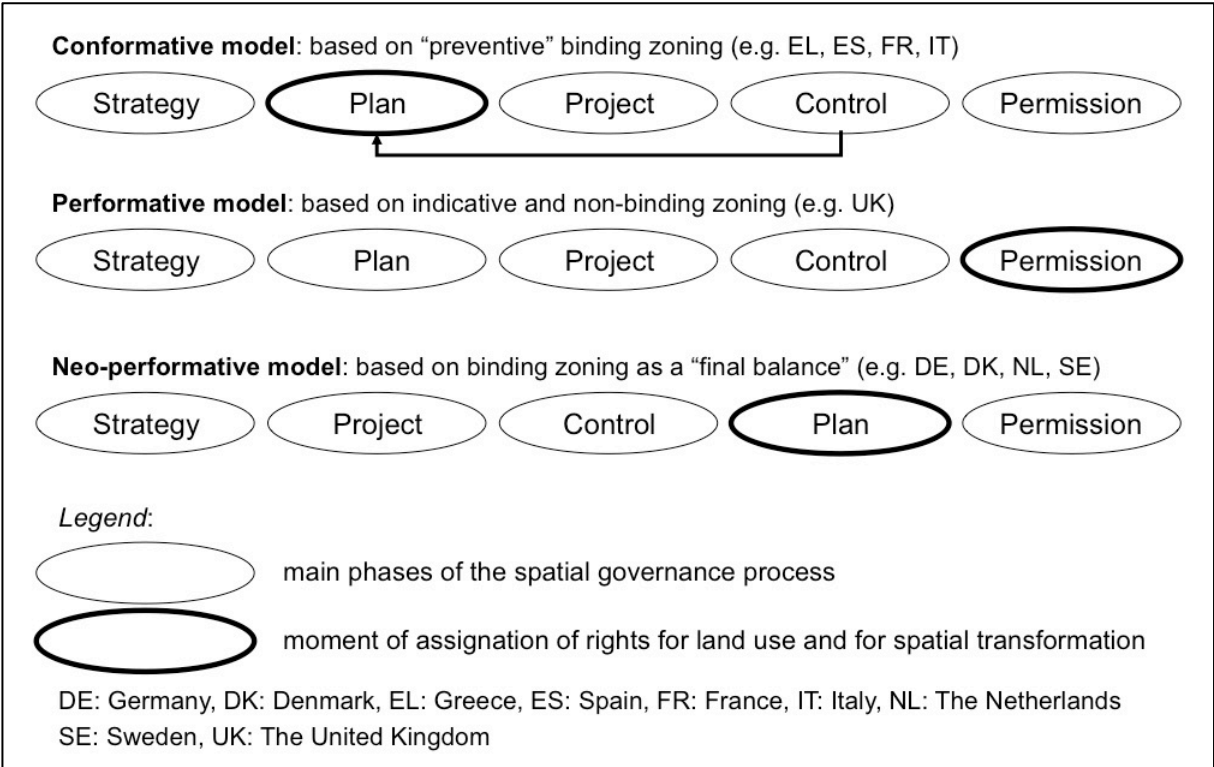
- a) a public spatial strategy for the comprehensive urban area is used as a basis for the collection of projects, their control and negotiation, which are finalized to share their final form and substance;
- b) a binding plan assigns consequently the rights for land use and for spatial development;
- c) building permits are delivered according to the plan.

«In the Netherlands, Germany, Sweden, and Denmark», in practice, «binding land-use rules (whether this concerns a new land-use plan or a modification of one to create new building possibilities) are only approved once negotiations with developers/landowners have taken place or, at least, when there is enough certainty about their successful conclusion» (Muñoz Gielen & Tasan-Kok, 2010, p. 1100). Despite the same juridical regime of southern European countries, their systems of spatial governance and planning tend thus to reproduce the operational advantages of the performative model in terms of “public-value capturing”. As in the case of the performative model, and unlike the conformance model, the neo-performative model prevents a “blind” pre-assignment of rights for land use and for spatial development through the plan, and postpones the assignment of rights after the public control of development projects. Privatization of profits derivable from spatial development is therefore not guaranteed by the plan and may even be at least partly transformed in compensation for social losses that could arise from the spatial development. This can occur thanks to public control of the spatial projects that – in the absence of acquired rights – can be extended to their overall performance with respect to the plan objectives.

Moreover, the absence of preventive assignation of new rights on property strengthens the political autonomy of decision-makers in the design of new spatial strategies at various scales, mitigating the social losses that inhibition of this autonomy tends to determine in the case of the conformative model. Less inhibited public strategies and the opportunity to affect the spatial development through an effective (not merely formal) control of projects increase, overall, the political and technical accountability in spatial governance, promoting the social and democratic transparency of the system and more responsible citizenship.

### The long and winding road of change in spatial governance

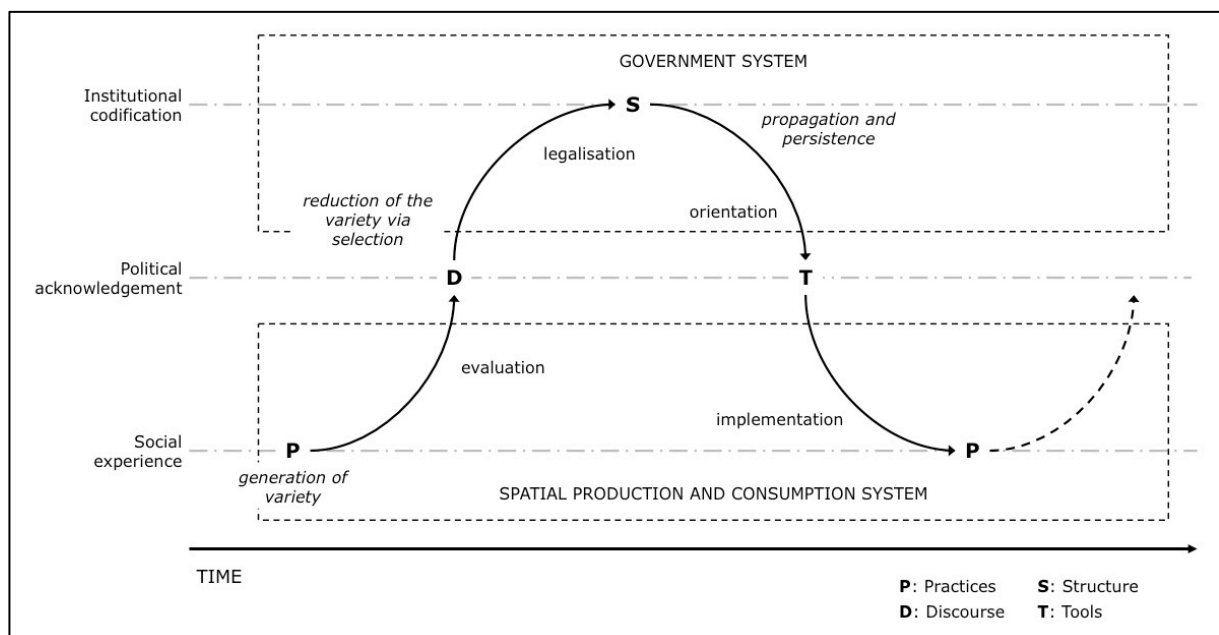
Overall, the three models described above (Figure 6) show that different combinations between plan and control devices within a spatial governance system are possible, and can achieve very different effects not only in the drawing of the spatial morphologies (Tennekes et al., 2015), but in the whole process of spatial, economic and social ordering and in shaping the spatial justice and citizenship. The historical evolution of these models also shows that the systems of spatial governance and planning are not immutable, but may change over time. Moreover, a common adherence to the legal tradition of civil law and to the constitutional relationship between land ownership and right to build – unlike the United Kingdom, and similarly to southern European countries – by the States that are applying the neo-performative model has been highlighted. This is perhaps the best evidence that the legal system established does not predetermine once and forever the whole operation of the spatial governance system and, therefore, cannot become an excuse to give up on change.



**Figure 6: Three models of spatial governance systems** (adaptation on: Knieling et al., 2016).

However, it must be observed that the systems of spatial governance and planning are very complex social constructs, which can be seen as an «institutional technology of government», operating «as a hinge between the government system [...] and the spatial production and

consumption system» (Mazza, 2003, p. 54, translated). This means that spatial governance and planning not only contribute to design citizenship (Mazza, 2015), but also by their nature are themselves shaped by the social structure and change (Nadin & Stead, 2008, 2009). The concept of “institutional technology” helps to explain the historical insurgence of spatial planning practices and cultures within the wider processes of institutionalization and, in doing so, leads to the representation of the concerned systems as end-products of creative selection processes of trial and error based on «a) first, the generation of variety (in particular, a variety of practices and rules); b) second, competition and reduction of the variety (of rules) via selection; c) third, propagation and some persistence of the solution (the system of rules) selected» (Moroni, 2010, p. 279). Such a possible representation (Figure 7) may of course open various considerations on conditions and possible drivers of change (Stead, 2012; Cotella et al., 2016), without forgetting that, after all, «the raw material on which institutional evolution acts is supplied by human trial and error, by intentional agents trying to deal with problems» (Moroni, 2010, p. 280).



**Figure 7: Formation and change of a system of spatial governance and planning** (adaptation on: Janin Rivolin, 2012).

In general, a spatial governance and planning system is potentially oriented, like any other technology, to renovate its own “capacities”: in this case the command options of the “government system” on the “spatial production and consumption system”, which in general is led by individual profit and thus equally pressed by the search for innovation (Harvey, 1989; Lefebvre, 1992). Paraphrasing Schumpeter (1949), a planning system is continuously called upon to provide the public action with a «creative response», because any simply «adaptive response» is driven to leave the production of space the permanent hostage of prevailing interests of individual profit. However, «in practice the process to adopt changes is rather slow and restrained by high transactions costs» (Fürst, 2009, p. 31), because of path dependence (Booth, 2011; Sorensen, 2015), the complexity of institutional processes and the conditions imposed by political conflict and economic dynamics, against the background of innate social struggle for land use control (Plotkin, 1987). Against this backdrop, «the loss of legitimacy of existing institutions resulting from crisis allows a heightened opportunity for policy entrepreneurs or other actors to reshape existing institutions and create new arrangements»; as far as spatial governance is concerned, «[p]articularly important is the



specification of the rules that apply to new capital investment in urban space, and the distribution of the costs and benefits of such investment» (Sorensen, 2015, pp. 25-26). In this light, the most dreadful suspicion is that more obsolete systems of spatial governance and planning that limit the socioeconomic development of southern European cities and countries will have a hope to be substantially changed only if the social costs of crisis will overcome the “transactions costs” that have prevented so far this opportunity.

## Conclusions

As argued in the previous sections, comprehending the variety of the European context can be valuable to understand how different systems of spatial governance and planning may have different impacts on the global crisis, especially with regard to its effects in terms of spatial justice. In this context, the southern European countries, which are more seriously affected by the crisis, are still ruled by “conformative” systems of spatial governance and planning. These systems, in spite of the most ancient customs and noble expectations, prove incapable of ensuring effective public governance of the “production of space”, especially in the contemporary socio-economic contexts. The extreme complexity of the matter and the absence of more systematic analysis prevent more specific correlations. It seems difficult to deny, however, that a balanced social distribution of profits and losses resulting from the spatial development can be achieved with some effectiveness if – as these systems determine – new rights on land use and on spatial development are allocated in advance of an effective public control of development projects. Ultimately, it «seems that when municipalities fix development possibilities early in the development process, this might stimulate land price increases and might also lead to the loss of a valuable negotiation tool. Municipalities might be giving away their “treasure”: that of being the only institution entitled to decide, with certain discretionary powers, if, when and what is allowed to be built» (Muñoz Gielen & Tasan-Kok, 2010, p. 1126).

This difficulty appears to have been understood in other European countries, which have modified in time the operation of respective systems of spatial governance and planning, and that seem less affected by the crisis of these years. Their “performative” systems, in particular, ensure that in one way (e.g. the United Kingdom) or another (e.g. various north-western European countries) new rights on propriety are assigned only after that the related projects of development have been controlled by the public authority and appropriately renegotiated to rebalance profits and losses within the urban community. Of course, also these systems are seriously threatened by the pressure of crisis (Buitelaar & Bregman, 2016) and can be improved. The effects of crisis have suggested, looking for instance at the British system, possible reforms in order to achieve systems that are less «growth dependent» in future (Rydin, 2013). This kind of proposals assumes, however, that a minimum of «planning gain» is already ensured by the «regulatory control» allowed by the system that needs improvement. In other words, one precondition is that «[p]olicies that weaken this regulatory control, for example, by establishing a firm presumption in favour of development» (*ibid.*, p. 45) are prevented already by the system, which does not happen in the conformative model.

In general, the coexistence of such different systems of spatial governance in Europe increases the problems of effectiveness of the EU policies (Janin Rivolin, 2008). Broadening our attention beyond Europe leads us to acknowledge that the traditional conformative system of spatial governance and planning is arguably still prevalent in the world, which may help explain to the vast majority of careless planning scholars (Siemiatycki & Siemiatycki, 2016)

both the overall magnitude of the crisis and its duration. After all, the change of these systems, as “institutional technologies”, depends on highly complex social constructions, permeated everywhere at any time by endemic struggle for land use control. In conclusion, if «a bridge exists from the technical knowledge that planners embrace to the institutional change that seems necessary for planning to be effective» (Beauregard, 2005, p. 206), this is made by an increased public awareness of the crucial role of the whole system of spatial governance and planning for economic, social and even political life. The current responsibility of the planning scholars has perhaps to deal with this, rather than continuing to feed a «sophisticated international academic discourse aiming to bridge theory and practice and to come from knowledge to action» (Kunzmann, 2016, p. 1317) and new urban developments.

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