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Conforming and Performing Planning Systems in Europe: An Unbearable Cohabitation

UMBERTO JANIN RIVOLIN

Abstract

Two planning system models currently cohabit in Europe: a more traditional and widespread one, aspiring to 'conform' single projects to a collective strategy; and a different and less institutionalised one, promoting those projects capable of 'performing' a collective strategy. Historical and cultural reasons may explain the major diffusion and persistence of the former, but current needs of territorial governance lead to consider the latter as preferable. This is especially so in the light of the EU integration process, such cohabitation is no longer bearable and conforming ambitions should be definitively abandoned.

Introduction

Two planning system models currently cohabit in Europe: a more traditional and widespread one, aspiring to 'conform' single projects to a collective strategy; and a different and less institutionalized one, promoting those projects capable of 'performing' a collective strategy. Historical and cultural reasons may explain the major diffusion and persistence of the former, but current needs of territorial governance lead to consider the latter as preferable. This is especially so in the light of the European Union (EU) integration process—such cohabitation is no longer bearable and conforming ambitions should be definitively abandoned.

Spatial planning traditions and institutional planning approaches in Europe are varied (Newman & Thornley, 1996; Commission of the European Communities [CEC], 1997; Balchin *et al.*, 1999; European Spatial Planning Observation Network [ESPON], 2007a). It seems plausible to admit, however, that they convene generally (exceptions, mentioned later in this section, are rare) in treating local implementation in terms of 'conformance': spatial development projects must conform themselves to the collective strategy affirmed by the plan, usually through a land-use zoning design.

Several forms of this type of 'conforming planning system' are present in European countries and elsewhere for historical and cultural reasons. Modern planning

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institutionalization put down roots in the phase of industrial and bourgeois revolution and of the formation of modern states (Chapin, 1965; McLoughlin, 1969; Faludi, 1973; Taylor, 1998; Hall, 2002). In the 20th century, particularly, the pressing needs of post-war reconstruction and of Fordist urbanization have supported a planning model 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. Even the most progressive planners, conditioned (and guaranteed) by an institutional and cultural context inspired to the welfare state paternalism, have generally nourished the assumption that the State, as the keeper of collective interest, is expected to 'conform' projects of property development to its own strategy.

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 allowed to emerge with increasing clearness the limits of conforming planning. They regard the difficulty of plan implementation in the context of reconciling multi-level collective strategies to a growing plurality of local and individual projects of spatial development.

Be that as it may, after the decision of strengthening integration in order to reduce the costs of globalization (CEC, 1985), the EU has found it necessary to deal with spatial development and planning practices (Williams, 1996; Faludi, 2002; Janin Rivolin, 2004). However, being deprived of a formal competence of land-use regulation, the EU has fostered territorial governance processes based on a principle of 'performance'. This applies in practice by the promotion of non-binding spatial policy programmes and the progressive promotion of projects that prove themselves capable to 'perform' the agreed collective strategy. In other words, whereas conformance evocates primarily a 'correspondence in form, manner, or character' or an 'action in accordance with some specified standard or authority', performance poses rather the accent on 'the execution of an action' or 'the fulfilment of a claim, promise, or request' (definitions by the Encyclopaedia Britannica Online).

Therefore, on the one hand, the European Spatial Development Perspective (ESDP) (CEC, 1999; see also Faludi & Waterhout, 2002)—the 'proudest achievement' of European spatial planning (Faludi, 2001, p. 245)—is expected to find 'application' (rather than implementation) in the EU member states (Faludi, 2003; ESPON, 2007b). On the other hand, according to EU regional policy regulations, only those projects expected to achieve effectively the collective strategy agreed by Community programmes (under Structural Funds' mainstream, Interreg, Urban, Leader initiatives, etc., in their turn related to the ESDP) can be funded for implementation. In this case, the selection of projects according to agreed and explicit evaluation criteria, conditioning their possible approval to substantive changes, takes a pivotal role in the implementation process.

The absence of a land-use regulation competence has been surely an incentive to adopt a non-conforming rationale of policy implementation at the EU level, but to identify this as a precondition of a 'performing planning system' would be misleading. After all, one might rightly argue that also the United Kingdom's planning system (obviously working in accordance with a statutory competence of land-use regulation) is used to promote performing planning practices. Being

indeed an exception among European countries,¹ the United Kingdom has not pursued the exercise of ‘conformance powers’ in planning for a long time.² In this case, the fundamental task of project evaluation and negotiation is legitimately carried out by local authorities, which are not conditioned by binding zoning designs.³ The UK exception may find a historical explanation in the nationalization of development rights in land in the post-war period.⁴ It seems reasonable, in other words, that a major control power assigned to the State through the development rights nationalization may have allowed the removal of the need for adoption of binding zoning plans. If so, it is worth observing that the UK case (stronger land-use regulation power) presents a diametrically opposite situation to the aforementioned EU case (a lack of land-use regulation power).

Therefore, the difference between conforming and performing planning systems does not deal with matters of statutory competence (national states versus the EU), nor of planning scale (local planning versus spatial planning), nor of type of plan (land use plans versus strategic plans). The topical distinction regards, rather, the modalities of delivering spatial development rights in the face of an agreed collective strategy. In the ‘conforming’ model (the more traditional and widespread in European countries’ statutory planning systems), development rights are assigned in advance along with the design of the collective strategy, which is therefore translated into a binding zoning design. In the ‘performing’ model (exceptionally adopted only in the UK statutory planning system but now familiar also to the EU not-statutory planning practices), development rights may be assigned after the evaluation of projects, once they have been assessed to be in line with the collective strategy, as a non-binding policy reference.

These two planning models relate to respective cultural assumptions and technical procedures finally producing, in virtue of their juridical effects, different operational consequences on spatial development and on territorial governance. The present contribution argues that, for various reasons, a performing planning system is preferable to a conforming one. Moreover, it suggests that current cohabitation of these two models in Europe plays against the common interest of good EU territorial governance.

With this intention, the article presents a clarification of the different meanings that the crucial topic of ‘performance’ may be given, whether related to plans or to planning systems. An attempt of conceptualization of the role and functions of a planning system, useful to frame the discussion, will follow. The article will then focus on features and effects, respectively, of conforming and of performing planning systems. The apparent contradiction between the wider diffusion of the former and the manifest advantages of the latter will lead to a brief note on the complexity of innovation in planning. This aspect is helpful to understand current difficulties of institutional progresses in EU territorial governance, even if an agreement for abandoning conforming planning practices would be both convenient and feasible. Finally, a concluding section will sum up the main findings of the article.

Performance of Plans and Performance of Planning

Encyclopaedia Britannica Online defines ‘performance’ as the ‘execution of an action, something accomplished’ or the ‘fulfilment of a claim, promise, or

request'. Wikipedia strengthens the meaning of 'carrying into execution or action; execution; achievement; accomplishment' (see <http://en.wiktionary.org/wiki/performance>, accessed 21 October 2007). This term is often used in opposition to 'conformance' (or conformity), which the same sources define rather as the 'correspondence in form, manner, or character'; an 'action in accordance with some specified standard or authority'; a 'state of things being similar, or identical'.

Of course, performance and conformance are not new concepts for planning. Particularly, the discussions on strategic planning (Healey *et al.*, 1997; Salet & Faludi, 2000; Albrechts *et al.*, 2003; Albrechts, 2004, 2006; Healey, 2006) and, later, on European spatial planning have posed a clear distinction between performance-based and conformance-based approaches to planning and to plans evaluation (Alexander & Faludi, 1989; Faludi, 1989, 2000, 2006a; Mastop, 1997; Mastop & Faludi, 1997). Marking the difference between regulative plans as technical exercises and strategic plans as learning processes, planning theorists convene that whereas the former are considered for their capacity in shaping spatial development (conformance criterion), the latter should be rather evaluated for their capacity in shaping the minds of actors in spatial development (performance criterion).⁵ In this light, 'application' is said to be a concept more suitable to indicate the performance of strategic plans,⁶ usually occurring at regional or even wider scales,⁷ whilst 'implementation' is intended to remain a task concerned by regulative local plans.⁸

To accept the above recalled argument does not prevent the observation that, since its trueness is based on the assumption of at least two types of plans (strategic supra-local plans and regulative local plans) coexisting in a planning system, the adopted meaning of 'performance' cannot apply to planning systems themselves and to planning as a whole. To define performance as the capacity in shaping the minds of actors in spatial development indeed fits well to plans that, for their institutional nature, are not addressed directly to be implemented and to shape spatial development. But any attempt to employ the same definition for planning systems (or to the planning process as a whole), which respond to institutional mandates of shaping spatial development and of implementation,⁹ would simply lead to the conclusion that they can only have a conforming nature.

Therefore, if one argues that the case may be different, as the present article does, performance of planning as an opposite to the usual approach of planning systems in Europe needs to be defined otherwise. There is no need to invent anything, however. Definitions recalled at the beginning of this section seem to fit perfectly the case. In conforming planning, the capacity of shaping spatial development is indeed pursued by the attempt to impose 'a correspondence in form, manner, or character' to development projects, and implementation is intended as 'an action in accordance with the standards' established by the authority. In performing planning, the capacity of shaping spatial development passes rather through the opportunity of obtaining from specific projects 'the fulfilment of what claimed, promised or requested' by the plan, and implementation looks primarily at the 'achievement' or 'accomplishment' and at 'carrying into execution' the aims of the plan.

So defined, of course, 'performance of planning' is not in contradiction with the 'performance of strategic plans': it understates the dimension of plans as learning

processes as well as the importance of shaping the minds of actors in spatial development. The performance of planning, however, is not limited to these aspects because it cannot be regardless of regulative local plan activity and of the implementation function. In other words, the proposed definition suggests that if territorial governance is at stake, the crucial question is not whether (performing) strategic plans are preferable to (conforming) regulative plans, but how the strategic and regulative functions of planning should be differently correlated in a planning system addressed to performing (rather than conforming) aims. The following section is devoted to framing this discussion.

Role and Functions of Planning Systems and Two Spheres of Interaction

Territorial governance is both allowed and conditioned by the functioning of planning systems. These may exert statutory and not-statutory functions. Since spatial transformations affect the use of land, however, planning must deal with a statutory function of land-use regulation in accordance with the property regimes respectively acknowledged by constitutions in force.

According to Mazza (2003, 2004), the social role of a planning system may be imagined as a 'hinge' between the 'government system' (in a general sense) and the 'spatial production and consumption system'.¹⁰ In this framework, the government capacities towards the spatial production and consumption system largely depend on the planning system ability to define land-use rules and to make them effective in the spatial development process. Since implementation is a typical productive function (therefore belonging to the spatial production and consumption system),¹¹ however, the effectiveness of land-use regulation passes through a complex prism of decision-making procedures, technical exercises and interactive learning processes.

This aspect, of course, rewards those theorists who have focused attention over the past 20 years both on the acknowledgement of urban and territorial governance scenarios (Stone, 1993; Bagnasco & Le Galès, 2000; Albrechts *et al.*, 2001, 2003) and on the communicative perspective of planning (Forester, 1989, 1999; Alexander, 1992; Sager, 1994, 2006; Healey, 1997). The image of the 'planning system as a hinge', however, is helpful in considering that even though government aims and governance outcomes often differ in practice, government and governance are necessarily coexisting dimensions of the planning process and cannot be assumed as mutually exclusive perspectives. The concept of 'dual planning theory' (Sager, 2007) seems to fit a theoretical perspective aware of both the top-down and bottom-up dimensions of any planning system at work.¹² Particularly, if the building of planning decisions is or can be a multi-level, multi-sector and multi-actor governance process, the ultimate outcome of planning activities is however a government action, because the legitimate power to modify the existing use rights in land belongs to public authorities.

The above conceptualization enables us to overcome the recurring dichotomy between 'regulative' and 'strategic' plans as well, because it draws attention to the social role of planning as a whole. The validity of analytical distinctions between types of plans notwithstanding, the coexistence of multiple technical functions within a planning system is rather an aspect to be addressed in order to assess the

capacity of planning in attaining its social role. Four functions at least are present in every planning system (Mazza, 2003, 2004):

1. a *strategic* function, concerning both the definition of goals and of policies to achieve them, and the construction of (spatial) frameworks for action;
2. a *regulative* function, dealing with land-use regulation;
3. a *design* function, regarding the definition of policies and projects for spatial development; and
4. an *informative* function, dealing with the production and circulation of information.

Among them, only the latter (Function 4) is a general function, in the sense that it crosses the former ones with the aims of improving interaction, guaranteeing transparency in planning processes and favouring consensus-building. The others are specific functions, in the sense that they respond to respective and autonomous objectives in the planning process. Particularly, the regulative function (Function 2) has by definition a *regulating nature*, to acknowledge and to guarantee use rights in land. It is therefore based on *established and agreed rights and values*. In contrast, the strategic (Function 1) and design (Function 3) functions have a *transformative nature*, to define new goals and subsequent proposals of transformation. They are, therefore, referred to as *new values and possible rights in land*.

According to the above tripartite relationship between ‘government system’, ‘planning system’ and ‘spatial production and consumption system’, these functions appear to be variously active in two (interlinked) spheres of interaction (Figure 1).

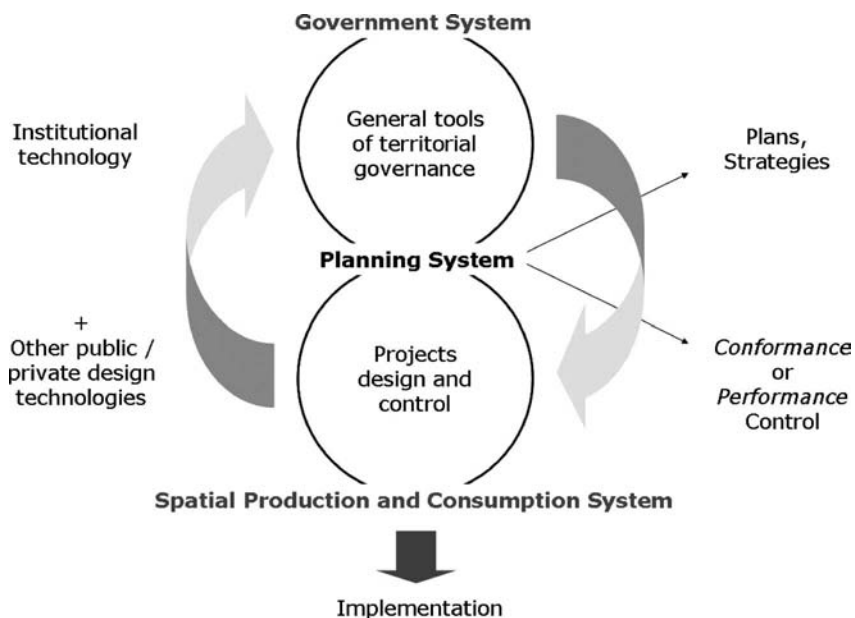


FIGURE 1. Planning system as a ‘hinge’ and two spheres of interaction in territorial governance.

The first sphere regards the interaction between the *government system* and the *planning system*. The institutional dimension of planning is therefore prevailing in this sphere. If one accepts the definition of planning as a ‘technology’,¹³ this means the planning system works here properly as an ‘institutional technology’, allowing public authorities to connect the existing production and consumption processes to their intentions of regulation. Here formal and informal interactive processes, producing strategies, plans, policies and projects, are developed. The planning system combines its technical functions in order to produce *general tools for territorial governance* (usually plans) in this sphere.

The second sphere regards the interaction between the *planning system* and the *spatial production and consumption system*. The capacity of planning as an institutional technology is therefore open to further public and private design technologies. Here the general tools for territorial governance, produced in the first sphere, become the subject and source of further formal and informal interactive processes, even more complex (the number and variety of stakeholders increase) and finalized to implementation. This, however, is an exclusively productive function and is therefore excluded from the sphere’s domain. Rather, the *design and control of implementation projects*, with reference to plans, is the product of interaction. In this sphere, therefore, the planning system exerts its technical functions according to *conforming* or *performing* objectives.

The above illustration may appear somehow abstract, because it is finalized to stress how the planning system functions are employed in quite distinct interactive processes when addressed to *plan elaboration* or to *spatial development control*. The sense of abstraction is especially due to the fact that processes of plan elaboration and of spatial development control take place almost contemporarily in practice and are continuously influenced by mutual interaction and mutual-learning activities. Both in theory and in practice, however, the linkage between the two spheres is not hierarchical nor necessarily consequential. The assumption of *conforming* or *performing* objectives by the planning system determines indeed the quality of such linkage and, consequently, the capacity of planning to respond to its social role. The following three sections will develop these aspects.

Assumptions and Consequences of Conforming Planning

‘Conforming planning’ was identified in the Introduction with the traditional model of statutory planning system, widespread in almost all European countries (like in the USA and elsewhere as well). It was said also that, for historical and cultural reasons, it is based on the ideal assumption that plan implementation responds to the capacity of making spatial development projects conform to the collective strategy proposed by the plan. Such assumption is applied in practice by assigning (new) use rights in land in accordance with the designed collective strategy, usually transferred in a zoning map. Consequently, those projects that conform to the plan will be automatically legitimated for development.

In brief, the *technical cornerstone* of the conforming planning model is that the plan is intended to be a binding public strategy, to be achieved by assigning rules (use rights in land) that are expected to be followed in public and private project implementation. The cultural ideals of hierarchy and of dirigisme, justified by the

assumption that the State is the keeper of the collective interest, lie at the root of such formulation.

This technical principle implies a precise *systemic consequence*, with reference to the above conceptualization of planning systems role and functioning. According to the conforming model, the two spheres of interaction (government system/planning system and planning system/spatial production and consumption system) indeed melt in a unique pot of decision-making processes and of technical functions. In such a melting pot, particularly, the transformative functions (strategic and design functions) and the regulative function of planning are factually interlaced in the general tool for territorial governance produced in the first sphere. In other words, spatial development control is somehow anticipated (perhaps pretentiously) in the strategy design, which is provided with a binding power indeed.

Therefore, as a *juridical consequence*, incoherencies between the plan and projects have to be resolved by conformance criteria: only (and all) those development projects that conform to the plan shall be legitimate for implementation. Of course, this regards especially the horizontal relations of plan management at a local level, where use rights in land are usually delivered. The effects of conforming planning are less visible in the upper-level plans (in which strategic planning practices have indeed flourished more easily). But, for the very same juridical effect, incoherencies between plans at different scales (vertical relations) are often resolved in favour of local plans (or of the assigned use rights, however), to the detriment of wider spatial strategies and projects. This may explain, by the way, most of the difficulties encountered by EU territorial governance processes in recent years (ESPON, 2007a, 2007b).

Therefore, there are sufficient reasons to suspect that implementation problems, affecting territorial governance in Europe (and elsewhere), deal with the above illustrated conforming approach. In brief, the main *operational consequences* of conforming planning practices may be pointed out as follows:

- a. creation of binding property rights (once the plan is approved, new use rights in land cannot be or can hardly be revoked);
- b. creation of additional property income (new use rights in land imply higher property values), counteracting possible changes in public strategies;
- c. rigidity and difficulty of public strategies (any change in public strategies implies new assignments of use rights in land, with the aforementioned consequences);
- d. incentive to spatial development but public control reduced to an 'administrative burden' (conformance control, with scarce or no possibility of improving projects apart from their formal coherence with the plan);
- e. decrease of political and of technical accountability in planning (because of the difficulty of public strategies and of development control reduced to an administrative burden);
- f. possible creation of decision-making contexts open to corruptive practices (because of the decrease of political and of technical accountability in planning); and

- g. trigger of a vicious circle in territorial governance processes (spatial strategies at whatever scale, when agreed for local implementation, are transfigured by what is illustrated above in points 'a' to 'f').

Characters and Advantages of Performing Planning

As mentioned in the Introduction, a distinct 'performing planning' model has been institutionalized only in the UK planning system and, for different contextual reasons, is being increasingly practiced across Europe thanks to the EU non-statutory territorial governance processes fostered since the 1990s. The ideal assumption featuring this model is that the plan is a policy reference, the implementation of which passes through the approval of projects that prove themselves capable to perform the agreed collective strategy. Such assumption is applied in practice by assigning new development rights only if and when projects have been positively evaluated, both under the political and technical profiles.

Therefore, the *technical cornerstone* of the performing planning model is that the plan is developed as a not-binding public strategy, the power of which is political and not judicial. Rules (use rights in land) are assigned for implementing those public and private projects that are capable of contributing to the public strategy. In accordance with the pragmatism of British common law tradition (Booth, 2003, 2007) or for the European Treaties influence, the ideals of hierarchy and of dirigisme inspiring the conforming model are overcome by principles of vertical and horizontal subsidiarity in the performing model (Janin Rivolin, 2005a).

The *systemic consequence* with reference to the aforementioned planning systems' conceptualization is that the two spheres of interaction (government system/planning system and planning system/spatial production and consumption system) remain quite distinct ambits, as for both decision-making processes and technical functions. Particularly, the transformative functions (strategic and design functions) and the regulative function are clearly separated and equally determinant for implementation. The crucial importance of this separation, which is clearly visible in the UK planning system at work,¹⁴ is somehow confirmed by the 1980s attempt of 'deregulation', which was precisely addressed to make local authorities 'unable to control development effectively in their areas' (Tewdwr-Jones, 1996, p. 5).

A *legal consequence* is that incoherencies between plan and projects can be resolved by performance criteria, since the use rights in land are the existing ones until a public decision says otherwise. Again, this regards especially the horizontal relations in the plan management at the local level, where use rights in land are delivered. As for the vertical relations between different tiers of planning, however, this implies that spatial strategies and projects at wider scales may be expected to shape the implementation process more effectively, once they have been agreed at local level. Which said, on the one hand, is nothing but a confirmation of the basic conceptual findings of strategic planning theories: convincing spatial visions and incentives to local action are in the end more effective than any pretentious attempt of top-down imposition. On the other hand, it adds that the modalities of assigning development rights at local level are not indifferent as for the success of strategic spatial policies as well.

In brief, the *operational advantages* of performing planning may be summed up as follows:

- a. better control of spatial transformation and of property income (no development rights in land nor higher values are previously guaranteed);
- b. more flexibility and political autonomy in the design of public strategies (changes in public strategies do not imply the assignation of new use rights in land);
- c. pivotal function of spatial development control through technical evaluations (performance control, aimed at improving projects with regard to the collective strategy objectives);
- d. better accountability of political and of technical responsibilities (not simply in the strategy design, but especially in projects approval);
- e. overall incentive to social responsibility and to democracy (better accountability of political and of technical responsibilities means more transparency); and
- f. trigger of a virtuous circle in territorial governance processes (local implementation ensures, for spatial strategies at whatever scale, which is illustrated above in points 'a' to 'e').

Answers to Performing Planning Critiques

Against this backdrop, of course, one has to acknowledge that British technical literature is full of critical examples on domestic planning practices (Healey *et al.*, 1988; Tewdwr-Jones, 1996; Allmendinger & Tewdwr-Jones, 2002) and that European planners are usually aware of the limits of EU spatial development programmes (Janin Rivolin, 2004; ESPON, 2007a, 2007b). More generally, some disadvantages and risks of 'flexible zoning' have been pointed out as well (Faludi, 1987; Tewdwr-Jones, 1999), namely:

1. *uncertainty*, affecting all developers and applicants and, particularly, the weaker players in the planning game (who may be better served by well-defined planning rights to which they can appeal);
2. the *discretionary nature* of planning decisions that confer valuable development rights, implying a vulnerability to corruption almost comparable with the 'conforming planning' case; and
3. major *administrative costs and capacity limitations*, due to the necessity to evaluate and negotiate each development project in the absence of formalized standards.

As for the first aspect, unless one questions that power to modify use rights in land belongs to public authorities (which is of course possible in an anarchist perspective), certainty in principle can be guaranteed only by the existing use rights. It is true, however, that uncertainty for future developments tends to depress local markets in practice, with detriment to public strategies as well. The crucial problem seems, therefore, to avoid the mismatch between collective strategies, announced by the plan, and consequent market expectations. The

experience learned by the EU structural funds and Community initiatives programmes and practices over the past 15 years might be helpful for innovation in land use planning in this respect. In other words, tools such as recurring calls for tender or application, including explicit axes and measures of intervention, selection criteria and performance indicators, standardized evaluation and monitoring processes, and so forth, could be usefully adopted for local plans implementation as well, so reducing uncertainty and risk. An attentive adaptation work would of course be necessary but, basically, the assignation of new use rights in land in this case would play nothing but the role of EU co-funding in the other. Additionally, a clearer indication of obligatory standards for ordinary and minor developments would be helpful especially for weaker subjects. Finally, the uncertainty of those who may be affected by negative externalities produced by new developments should be reduced as well. This could be attained by the provision of compensation in favour of collective and individual interests adversely affected by new spatial developments, according to what established in calls for tender/application and to consequent project evaluation. Even if apparently complicated and difficult, all this could be feasible and the stake is that, if the cost of an absolute certainty is the rigidity of conforming planning, it is perhaps worth trying.

As regards the second aspect, a blunt answer would be that 'discretion is everywhere in the Anglo-American common-law tradition and cannot be avoided' (Booth, 2007, p. 132). More reasonably, one may argue that planning decisions are anyway exposed to such events, since discretion is exerted also in conforming planning systems (simply, it is anticipated in the phase of zoning design). Therefore, it is true that 'the phenomenon of corruption (i.e. the use of one's official position to favour someone else for personal benefit) has been found in both types of planning systems' (Moroni, 2007, p. 155).¹⁵ What seems relevant here is that whereas project evaluation is or may be made a rather accountable activity, this can hardly be the case for plan design. Therefore, discretion and the corruptibility risk are in principle favoured by conforming planning systems, in which even most valuable use rights in land are conferred along with binding zoning maps, the responsibility of which is never subjective.

Finally, regarding the third aspect, there is no objection to the fact that an accurate development control process is more expensive, also in terms of institutional capacity. The extent to which such major costs are justifiable in face of territorial governance aims is of course subject to political scrutiny. For their part, planners should especially consider their direct involvement in this matter as a technical community, since a better knowledge of spatial qualities and of relations with social behaviours would certainly contribute to reduce evaluation costs and to improve institutional capacities. The lack of a satisfying background of updated knowledge in this field is indeed said to be one major delay of contemporary planning theory (Taylor, 1998).

In conclusion, planning outcomes depend on a variety of practical and routine conditions, in which subjective responsibilities and human imperfectabilities often play a crucial role. In this light, the influence of institutional and operational frameworks is of course only one variable of the process. However, the differences between conforming and performing planning systems are substantial and should

not be disregarded (Table 1). What the above discussion suggests is that performing planning systems are *in principle* more suitable than conforming ones to let planning exert its social role responsibly. In other words, if the prescription of land use developments has been historically the more instinctive solution for an effective spatial planning, as intuited by Lionel Robbins more than 70 years ago:

The idea of a co-ordination of human activities by means of a system of impersonal rules, within which what spontaneous relations arise are conducive to mutual benefit, is a conception, at least as subtle, at least as ambitious as the conception of prescribing each action or each type of action by a central planning authority. (Robbins, 1937, p. 229)

Innovation in Planning

If what is argued in the above sections is convincing, a performing planning model appears to be preferable to a conforming one. Besides, the widest diffusion of the latter among almost all EU countries and elsewhere for a long time may explain, if not the ‘great planning disasters’ (Hall, 1982) of which planners are conscious, the difficulties of plan implementation daily affecting territorial governance in our times.

Of course, this may appear somehow counter-intuitive: why has the conforming model been adopted in the largest majority of statutory planning systems, if there was evidence (in the UK experience, for instance) of a preferable model? Answers to this question might be multiple and complex, and the historical and cultural reasons previously recalled constitute only a partial attempt of explanation. The concept of planning as an ‘institutional technology’, introduced above in this article, may be helpful for a more comprehensive answer.

First, this concept helps to consider that, as for other technologies, planning is subject to innovation. This means both that innovation is possible and that, in

TABLE 1. Two models of planning systems

	Conforming planning system	Performing planning system
Principles	Hierarchy, dirigisme	Vertical and horizontal subsidiarity
Technical assumptions	Plan as a binding collective strategy	Plan as a not-binding collective strategy
‘Systemic’ consequences	Fusion of ‘spheres of interaction’: planning functions are melted	Distinct ‘spheres of interaction’: planning + control
Juridical effects	Incoherencies resolved according to conformance	Existing use rights in land till different public decision
Advantages	Certainty	Flexibility
Disadvantages	Rigidity	Discretion
Political and technical responsibilities	Centred on plan elaboration	Centred on plan elaboration and on projects evaluation
In force	Almost all European countries, USA	UK, EU spatial planning

certain circumstances, it is even necessary to avoid the techniques obsolescence in face of change (Friedmann, 1987).

Secondly, it suggests that, differently from other technologies, innovation in planning is strictly related to institutional frameworks and processes. This means that the ‘cumulative synthesis’ process leading to innovation (Schumpeter, 1949) passes through a complex cycle of social experience, public acknowledgement and institutional codification, making the process much longer and uncertain than for any productive innovation (Albrechts *et al.*, 2001; Gualini, 2001). In brief, the ascending phase of the process is triggered by practical and local experiences of problems of and solutions for territorial governance, leading to their *possible* acknowledgement by public authorities and, consequently, to a *possible* institutional codification of new aims and tools for territorial governance. In the descending phase, government aims and tools are applied by public authorities producing new local practices (Figure 2). The social evaluation of local outcomes is fundamental in order to trigger and to address a new possible ascending phase. Therefore, the responsibility of planners as for planning innovation is not limited to the employment of their technical expertise in making plans, but regards especially their contribution in guiding, as technical experts, the social evaluation of planning outcomes (Janin Rivolin, 2008).

Thirdly, the concept leads us to consider the argument that planning is a relatively young technology, if compared with others developed for ages in order to satisfy needs as old as the human race. If the need of a public land-use regulation may date back to the foundation of Jericho indeed, historical conditions have required and allowed a widespread institutionalization of current planning systems and techniques only since the 19th century (Chapin, 1965; McLoughlin, 1969; Faludi, 1973; Taylor, 1998; Hall, 2002).

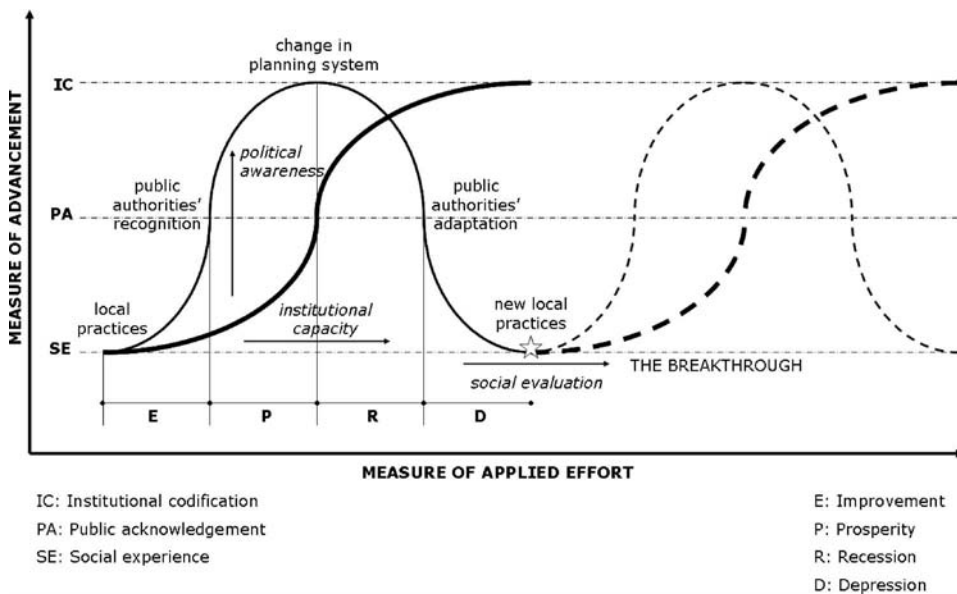


FIGURE 2. Innovation life cycle applied to planning as institutional technology (Janin Rivolin, 2008).

In brief, innovative processes in planning have to be seen in the light of relationships actually established between the government system and the spatial production and consumption system (determining the institutional and operational framework inducing the planning system to play as a 'hinge'). On the one hand, this allows for an understanding of the worldwide adoption of statutory conforming planning systems as the result of nothing but a true historical innovation at that time. On the other hand, it helps to interpret performing planning practices as (not predictable nor totally programmable) exceptions due to albeit subtle variations occurring somewhere in the established relationships between the government system and the spatial production and consumption system: as for the examined cases, the UK nationalization of development rights in land in the post-war period and the EU integration process progressively pivoted on the 'territorial cohesion' principle (Husson, 2002; Faludi, 2004, 2005, 2006b, 2007; Janin Rivolin, 2005a, 2005b) since the 1990s.

It is clear enough that planning cannot simply exert a static knowledge, which would allow only an 'adaptive response' to change (Schumpeter, 1949). Rather, to deserve its social usefulness, it has to innovate the government system's command options on a fatally ever-changing spatial production and consumption system. Especially when such command options appear to be blunt, planning is called to find a 'creative response' to change.

It was said above that social experience, public acknowledgement reception and institutional codification are in broad outline the steps of the innovation cycle in planning (Janin Rivolin, 2008). If so, the increasing pervasiveness and appreciation of EU territorial governance practices in these years, unattended effects included (Janin Rivolin & Faludi, 2005), should perhaps encourage European planners and institutions towards those 'new mental maps and removal of Cartesian inhibitions' that European integration requires (Williams, 1996, p. 265).

Time for EU Territorial Governance Principles?

Territorial governance is allowed and conditioned by the functioning of planning systems but, of course, EU territorial governance cannot lean on its own statutory planning system. Rather, the EU fosters various spatial development initiatives and not-statutory planning processes (Williams, 1996; Faludi, 2002; Janin Rivolin, 2004), needing to pass through national planning systems in order to shape or guide local developments (CEC, 1997; ESPON, 2007a). The ESDP (CEC, 1999; Faludi & Waterhout, 2002) is therefore expected to find 'application', rather than implementation, at national, regional and local levels (Faludi, 2003; ESPON, 2007b).

The not-statutory and often informal nature of EU territorial governance practices does not mean these are too abstract or not relevant planning initiatives, however. Since the EU spatial development aims are deeply embedded in genuine Community integration reasons (Janin Rivolin, 2002, 2004; Faludi, 2007), EU territorial governance practices are widespread and usually appreciated in all European countries. Particularly, they have shown themselves to be even capable of triggering mutual-learning processes among national planning cultures and innovative changes in the existing statutory planning frameworks (Janin Rivolin & Faludi, 2005; ESPON, 2007a, 2007b).

The node of relationship between EU spatial strategies aims and local implementation outcomes remains unresolved, however. Particularly, if one refers to what discussed above in this article, the prevailing diffusion of conforming planning systems in Europe tends to counteract the performing planning processes fostered in order to achieve 'territorial cohesion' in Europe (Husson, 2002; Faludi, 2005, 2006b, 2007; Janin Rivolin, 2005a, 2005b; Council of the European Union, 2006, 2008). Alongside success stories of European spatial planning, research recently carried out from the ESPON supplies evidence of difficulties and of scarce coherence that the cohabitation of performing and conforming planning systems generate: both in the general view of territorial and urban governance processes (ESPON, 2007a), and in the more specific one of the ESDP application (ESPON, 2007b). Overall, difficulties and scarce coherence in EU territorial governance may be explained as a permanent consequence and source of problems of:

- *efficiency of the government system*, because no interaction is established between the EU territorial cohesion policy and national statutory planning systems;¹⁶
- *fairness of the governance process*, because the 27 planning systems currently in force in the EU work accordingly to distinct procedures and principles;¹⁷ and
- *territorial cohesion policy performance*, since spatial development is attained almost everywhere in Europe by statutory planning systems of a conforming nature.

This, of course, constitutes an aggravating circumstance, particularly affecting the EU integration objective, of what was discussed in the previous sections. In other words, there would be a converging interest, between European countries and the EU, if conforming planning systems were dismissed. The German Academy for regional research and regional planning, known by its German acronym as the ARL, has posed the necessity of agreeing some 'minimum standards for spatial development policy' at EU level (Ritter, 2003, p. 9; see also: Faludi, 2004). I argued elsewhere (Janin Rivolin, 2005a) that, in accordance with the previous sections' findings, these should be set in the form of few simple principles, led to cast off conforming planning practices in all EU countries.¹⁸

As far as the institutional conditions for this happening are concerned, the EC Treaty in force establishes, under the environmental policy section (Title XIX), that 'the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, shall adopt [...] measures affecting', by the others, 'town and country planning' and 'land use, with the exception of waste management' (Article 175). If ratified, the new EU Reform Treaty, known as the Lisbon Treaty (Council of the European Union, 2008), would probably reinforce this possibility: on the one hand, because it fully and formally recognizes the 'territorial' dimension of EU cohesion policy; and, on the other, because it seems to simplify the legislative procedure as for the aforementioned environmental policy matters (after the same proposal conditions, the Council 'may make the ordinary legislative procedure').

The true problem is, rather, that decision-makers' attention in planning matters is now engaged in quite other business. The 'Territorial agenda' of the EU

ministers responsible for spatial development, discussed in the Leipzig informal conference in May 2007 (see <http://www.bmvbs.de/en/-,1872.963636/Territorial-Agenda-of-the-EU.htm>, accessed 21 October 2007), seems once again addressed to depict an agreeable perspective of the European territory, more than to worry about factual opportunities for its achievement. Meanwhile, the risk of a re-nationalization of EU regional policy, with the result that funds would be given not to regional and local stakeholders able and willing to propose projects, but to national authorities (as it was before the 1988 reform), is not so improbable.¹⁹ This, of course, would be one serious result of the wider political crisis affecting the EU integration process in these past years. The agreed impression that such crisis is after all related to the scarce performance of EU policies to the eyes of European citizens should let planners reflect too.

Conclusion

The present paper has argued that, the variety of planning traditions notwithstanding, two conceptual models of planning system may be currently acknowledged according to their respective ways of conceiving implementation. In one case, implementation is intended as the capacity to 'conform' development projects to a spatial strategy; in the other, implementation consists of promoting projects able to 'perform' the strategy.

By virtue of public powers by which planning activities are exerted, the above stated difference is put in force by opposite modalities of assigning rules (rights) of spatial development. In one case, rules are previously merged into the spatial strategy, with the ambition of implementing projects conformed to the strategy. In the other, rules are (possibly) assigned after the evaluation of projects, so as to ensure that their implementation can perform the strategy.

Theoretical assumptions and practical consequences of conforming and performing planning systems have been examined, concluding that the latter appears to be preferable to the former. However, since innovation in planning is a particularly complicated process, dealing with the complexity of historical and cultural backgrounds, social experience and institutional behaviours, theoretical evidence is permanently held in check by practical circumstances.

Therefore, both conforming and performing planning models are active in current territorial governance processes in Europe. Particularly, the former inspires the statutory planning systems of almost all EU countries. The latter is only exceptionally adopted in the UK statutory planning system, but has been more recently promoted everywhere in Europe thanks to the EU not-statutory spatial planning practices.

Current cohabitation of conforming and performing planning systems is a problem for Europe, since it determines contradictory results, playing against the common interest of good territorial governance. Such problem could be overcome by agreeing at EU level the abandon of conforming planning practices in all countries. This would be justified in the name of the agreed EU 'territorial cohesion' objective and would especially contribute to innovate the effectiveness of national planning systems in Europe. Such possibility is, however, quite far from the EU and national political agendas at the moment. A widespread lack of

institutional awareness on the social role of planning appears to be, at the end of the day, the most reasonable explanation of current disinterest.

If so, this should perhaps solicit the European planner community to discuss and to clarify this topic again. The present article aspires to be hopefully a contribution to such possible clarification.

Notes

1. '... planning system based on the civil code traditions of Napoleonic Europe have been constructed in a very different way from those whose base is English common law' (Booth, 2007, p. 127).
2. After the UK 1947 Town and country planning Act, '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' (Cullingworth & Nadin, 2002, p. 93). The UK planning system was improved by the 1968 Act, assigning to *structure plans* the provision of strategic tiers of development and to *local plans* the provision of (not binding) detailed guidance on land use. The effects of the 1980s 'deregulation' (Healey *et al.*, 1988; Tewdwr-Jones, 1996; CEC, 2000) notwithstanding, '[t]he essential features of the 1968 system are still in place today' (Cullingworth & Nadin, 2002, p. 93).
3. The 1947 Act established that, 'in granting permission to develop, local authorities could impose "such conditions as they think fit"' (Cullingworth & Nadin, 2002, p. 93). Therefore 'it is 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). See also Davies (1980), Tewdwr-Jones (1999) and Booth (2003, 2007).
4. 'All the owners were thus placed in the position of owning only the existing (1947) use rights and values in their land' (Cullingworth & Nadin, 2002, p. 21). See also Booth (2002).
5. 'What is meant by conformance is surely evident. Performance refers to whether decision-makers use a planning document, whether it helps clarifying choices, whether the planning document forms part of the definition of subsequent decision situations. [...] So our judgement must rest on whether, in the light of the messages from the plan, the actor's choices have been well considered, and not on whether the outcome conforms to the plan' (Faludi, 2006a, pp. 123–125).
6. '... application is something other than the shaping of spatial development. Application is the shaping of minds of actors in spatial development. [...] In terms of this discussion we might say, performance is a question of whether, and how, those concerned apply a planning document' (Faludi, 2006a, pp. 120–123).
7. 'Strategic planning occurs where there is uncertainty, with the involvement of many actors adding to the complexity of the situation. Whilst it can occur at the local level, these conditions are more common at regional and national and even more so at the level of the European Union' (Faludi, 2006a, p. 122).
8. 'Talking about implementation complements the view of planning as a technical exercise. Talking [...] about application complements that of planning as a learning process' (Faludi, 2006a, p. 119).
9. 'For the final output of such a process is the act of physical development (or, in some cases, the decision not to develop, but to leave the land as it is)' (Hall, 2002, p. 3).
10. According to the author's definition (Mazza, 2003, 2004), the 'spatial production and consumption system' is the complex of practices contributing to the physical environment transformation: private and public housing, buildings, infrastructures, heritage preservation and renewal, mining activities, rural and forest exploitation, management of the environment, and so forth.
11. Implementation could be a function of the planning system only in a (idealistic) totalitarian regime, in which the spatial production and consumption system would be part of the government system (Dahrendorf, 1968; Pressman & Wildavsky, 1973). In this light, of course, the recurring term 'plan implementation' may be somehow misleading.
12. "'Dual planning theory'" serves both authorities and affected citizens, and the concept would not deserve much attention if the interests of government and governed were always in harmony. Then there would be no real duality. It is more thought-provoking that one and the same planning theory can be used to serve both authorities and ordinary citizens in "agonistic" characterized by conflicting interests' (Sager, 2007, p. 2).
13. '... planning can be seen as a technology for collective action aimed at improving the physical environment' (Sager, 2007, p. 18).

14. 'Even today, 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). See also Davies (1980).
15. According to the author, this happens because 'even if the planning systems of Continental Europe and of Great Britain are clearly in accordance with the formal and legalistic ideal of the *constitutional state*, they do not completely adhere to the more substantive ideal of the *rule of law*' (Moroni, 2007, pp. 154–155).
16. 'First, a European spatial policy that is based on the principle of cooperation can only be created in any meaningful form if all Member States contribute their ideas on spatial policy' (Ritter, 2003, p. 9).
17. 'And second, states completely foregoing any kind of spatial policy control in their own territory—or which exercise such control only on a marginal basis—would have an unfair advantage in intra-European competition' (Ritter, 2003, p. 9).
18. Such principles would be, namely: (1) *vertical subsidiarity*, confirming that regulative land use powers are matter of local planning; (2) *horizontal subsidiarity*, establishing that regulative land use powers regard the existing use rights in land, without affecting development strategies at any planning level; and (3) *coordination between subsidiarity and cohesion*, providing for compensation clauses in favour of collective and individual interests adversely affected by spatial development. For further discussion, please see Janin Rivolin (2005a).
19. 'Since the current system of "multi-level governance" forges links between the Commission and these stakeholders, re-nationalizing EU regional policy would deprive the Commission of political leverage—this being surely the intention' (Faludi, 2007, p. 571).

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