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Introduction to the OECD's work on the governance of land use

How land is used affects a wide range of factors – from day-to-day quality of life factors such as the availability of food and clean water and the length of daily commutes, to the long-term sustainability of urban and rural communities, including the possibility for climate change adaptation and mitigation. How governments regulate land use and address public and private investment, how competencies are allocated across levels of government, and how land use is taxed, is critical.

The importance of better understanding land-use policies has been underscored by a wide range of developments, including the recent formation and subsequent bursting of real-estate bubbles in a number of OECD countries, the growth of renewable energy production, changing demographics, the provision of public services including public transport, environmental concerns, spatial planning, changes in lifestyles, tourism and growing food security concerns. These examples illustrate the strong relationship that exists between land-use policies, social development, and macroeconomic trends and fluctuations across both urban and rural territories.

The interactions between institutions and markets can heavily influence the supply, availability, function and location of land. A major function of the planning system is to balance property rights against the public interest by translating spatial development processes into physical form. Land-use

regulations and tax regimes create various incentives and disincentives that are played out across landscapes. The interface between these issues is complex and often contested, in particular on the fringes of urban and rural areas, in brownfield redevelopment zones, and in areas of social deprivation. Any policy interventions therefore need to be carefully designed to be effective. A major role of planning is to proactively address and mediate these conflicts where they occur. This requires strong public engagement and communication, hence a growing tradition of collaborative and communicative planning. Given the “nestedness” of spatial planning, it is no surprise that determining the appropriate level of planning, regulation oversight and implementation is difficult. Moreover, forms of land governance depend on the institutional history of a country and are often influenced by the country-specific evolution of the system of property rights and land-use planning.

In recognition of the importance of these issues, the OECD's Regional Development Policy Committee (RDPC) and its Working Party on Urban Policy (WPURB) and the Working Party on Rural Policy (WPRUR) have undertaken a programme of research on the governance of land use. This case study of spatial and land-use planning in Poland is the first of several case studies that will be published together with an inventory and analysis of land-use planning systems across all OECD countries.



The governance of land use in Łódź

In the late 1980s Poland transitioned from a centrally planned socialist state to a democratic market economy. Thus began a series of reforms that have significantly altered both spatial policy and the governance of land use in the country. Private land tenure was introduced and a new regulatory framework was established alongside decentralisation reforms.

Today, Poland has spatial plans at every level of government – national, regional and local – with each intended to inform the latter. Local governments regulate land uses and built form through local spatial development plans and give administrative decisions for development where none exist. Upper-level plans describe guidelines and

inform and direct major national and regional investments. European Union (EU) directives have also shaped practices in some areas (e.g. environmental assessment) and EU funding has spurred on numerous public investments that influence land use. The legal and regulatory framework, together with institutional structures, the fiscal environment, legacies of built form, and socio-economic and political factors, all shape how land is used and developed at the local level in Poland.

While the following assessment relates to practices in Łódź, national legislative and regulatory frameworks shape instruments at the local level across Poland and are thus common to Łódź and other cities as well.

The current situation

Łódź is embarking on a major effort to reposition itself after facing severe economic and demographic challenges

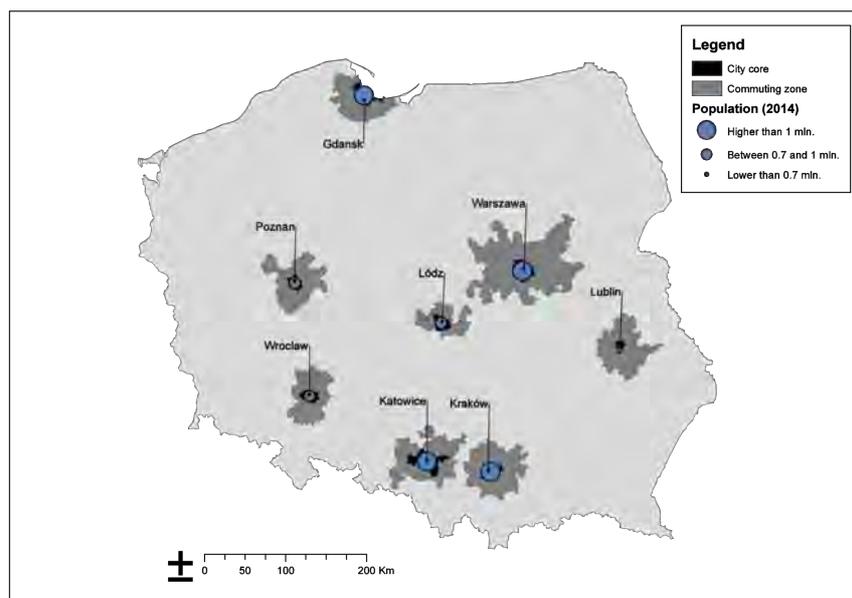
Łódź is the third-largest city in Poland and is located about 100 kilometres south-west of Warsaw (Figure 1). Historically it was a prosperous textile centre, but has lost the majority of this industry to lower cost competitors in Asia. As a result, it has a large number of vacant late 19th through mid-20th century industrial buildings in the city centre. These are surrounded by former worker housing complexes, many of which are in need of significant repair and modernisation. Further, like many cities in Poland, Łódź is experiencing the tandem effects of depopulation (due to low birth rates and outmigration) and deconcentration. Population projections suggest that by 2025 Łódź could lose up to 10% of its current population through a combination of natural

decrease and outmigration (Figure 2). Consequently, even with economic revitalization, there is an expectation that the population of the city will continue to shrink.

Over time, people have left the city centre for newer housing developments on the fringe

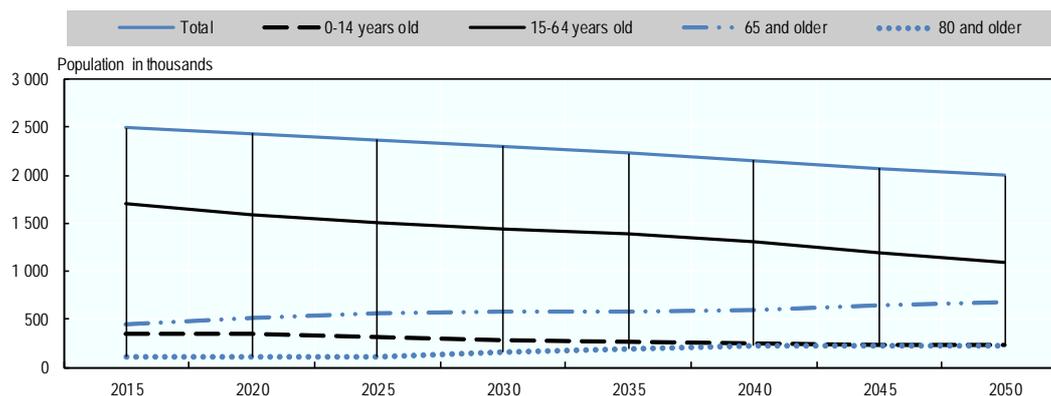
Even prior to the end of socialist period, there were new housing developments constructed at the edge of the city. With the end of central planning and the restoration of property rights (including land), this process has accelerated and now the vast majority of the city population lives and works outside the historic city centre in newer housing units. New housing continues to be built even as the population shrinks, which has contributed to an increasing deterioration of older housing in the city centre and a concentration of low-income households in the area. Part of this expansion is related to an increase in the average size of homes.

Figure 1. Functional urban areas of select cities in Poland, by population, 2014



Source: OECD (2015), OECD Metropolitan Areas Database, Metropolitan eXplorer, <http://measuringurban.oecd.org>.

Figure 2. Łódź region, population projection by age grouping



Source: Central Statistical Office of Poland (2014), "Population projection 2014-2050", <http://stat.gov.pl/en/topics/population/population-projection/population-projection-2014-2050,2,5.html>.

Łódź is restructuring its economy and has had success with a new manufacturing role

Łódź has retained some of its textile capability but is now positioning itself as a light manufacturing centre that sits between the People's Republic of China (hereafter "China") and Western Europe. This location, combined with reasonably skilled and relatively low-cost labour, can provide the opportunity to import lower cost components from China for assembly into finished goods for the European market. There is also the future potential to import higher cost, more sophisticated components from Western Europe and assemble them for export to China. The city already has a dedicated train that travels from Łódź to China and back once every two weeks to move components and goods. However, most of the new manufacturing facilities have been built outside the city centre on greenfield land, including some on land in a special enterprise zone created by the Polish national government. Transportation infrastructure improvements are vital to this hub function

To be successful as an intermediate processing and logistics hub, Łódź requires major improvements in rail and road infrastructure. Much of this is now being built, including better north-south and east-west roads and a significant upgrading of main-line rail infrastructure and terminal facilities in the city itself.

While much of the new infrastructure supports the movement of freight, there are also new passenger transport connections. In particular, the new fast rail line to Warsaw – a city which is expanding and becoming wealthier – could result in Łódź becoming a "bedroom" community in the future, if comparable housing units remain cheaper in Łódź.





New revitalisation and development and strategy

Łódź is hoping to restructure its economy and become a more compact city to better suit its smaller population and new economic function

With ongoing population decline, Łódź faces the challenge of providing public services across a fragmented territory, resulting in relatively high costs. Higher costs, or poor services, may make the city less attractive to the inward investment Łódź needs to accomplish economic regeneration. In addition, because the city owns land within the city centre, it has a particularly strong incentive to find a way to increase the value of this asset and thereby reap the benefits of higher land rents.

Constructing a compact city – a city that is more dense with less unused land – based on a revitalised urban core is also seen as having positive economic, social and environmental benefits. Social benefits include the opportunity to rehabilitate housing and allocate some of it to current low-income residents and to potentially revitalise urban neighbourhoods. Environmental benefits are seen as coming from the reduced use of private transport, reduced need for road

construction and improvement, and a shift to public transport. The potential for these improvements resulted in Łódź receiving EU funds to support a major part of the investment in rehabilitating the core.

The strategy has great potential, but faces significant challenges

In order to be successful, Łódź will have to reshape the preferences of individual households and firms and reverse the current trend of dispersion. This will not be a simple task since the available tools are limited in number and scope. The majority of people now live outside the city centre and to date, firms have exhibited a preference for greenfield sites over infill brownfield sites in the centre. This means that repopulating the core with people and firms is most likely to come from new households and new firms, as opposed to existing ones. Moving current residents back is improbable because they have incurred significant costs at their new location that make them immobile. Similarly, existing firms are locked into their current location. Since Łódź must continue to provide services to these sites, they will continue to provide an alternative to a location in the urban core.

The shrinking demographic base is an impediment to the revitalisation strategy

Łódź clearly has the ability and authority to accomplish reconstruction given the financial support from the national level and the EU, but it faces the challenge of convincing firms and people to occupy the new developments. If the main source of new residents and firms in the revitalised core is new households without a pre-existing residence or a firm seeking a new location, then a declining population inevitably shrinks these numbers. On the other hand, if Łódź can make the core more attractive to households and firms than alternative locations, either in existing houses and buildings further out or new greenfield developments, then its strategy can be successful over time.

The city of Łódź owns a significant share of the land and buildings in the city centre and has a strong financial interest in increasing their value

The city administration is working to manage a shift in economic structure accompanied by a steady decline in population. It has embraced urban revitalisations as the main mechanism under its control to accomplish this and to manage its exposure to the costs of providing public services to firms and residents. In this regard Łódź has precisely the same incentives that most cities would face in similar circumstances. However, in Łódź the city also has the incentive as a large land owner to manage the development process in a way that increases the value of this asset. Arguably, doing so is in the public interest, because increased revenue from land in the urban core can be used to fund other services for residents.



There is the potential for tension between good public policy and the financial interest of the city. Even though it might be easier to extract revenue from tenants on city-owned land to fund other services, it might be more efficient and more equitable to fund these services from user charges so the beneficiaries pay directly. Perhaps the tension

is best captured by considering the hypothetical question of how far the city administration will go in using its authority to ensure that the redevelopment policy is a success. Arguably, if the redevelopment strategy had been conceived of by the city but largely implemented by a private developer, the incentives for supporting the process would be different.



Land-use planning

Local spatial development plan coverage is very low...

Local spatial development plans are the key tool for local governments to shape urban form and use. They are the only legally binding plan which signals to residents, developers and investors how land, buildings and infrastructure will be developed in the future. However, plan coverage is low across most Polish municipalities and particularly low in Łódź.

In 2003, revisions made by the Spatial Planning and Development Act did not prolong the binding force of all development plans prior to 1994 (which were set to expire in 2000) since they had been established under a markedly different environment. This meant that a wide swath of cities would no longer have valid local spatial development plans – an issue that remains to this day. Since then, the adoption of new plans has been slow; the 2003 act did not designate the adoption of new plans as compulsory and there are several structural obstacles to the creation of new plans. For example, rules on property owner compensation for properties negatively affected by a local spatial development plan create a disincentive for municipalities to adopt them due to the potential for future litigation.

As a result, there is a reliance on the “planning decision” mechanism

Development in areas without a valid plan are governed by “planning decisions” for an individual building or change of land use requests. This can lead to fragmented and undesirable forms of development. Planning decisions are bound by national law and by specific legal procedures that limit planners’ ability to direct development. For example, such decisions consider the existing features of buildings in the surrounding neighbourhood. If there is an existing building in the surrounding neighbourhood of a particular height, this provides the land owner the right to build a similarly-scaled structure. Thus, planning decisions are based on existing features, rather than desired ones. Further, there is no legal obligation for such decisions to comply with local spatial studies, which serve as the strategic planning document for municipalities. An over-reliance on planning decisions in cities with low plan coverage can lead to new developments and uses which are costly to service and maintain, and may be contrary to the aims of broader spatial strategies. In effect, they facilitate sprawl.



Functional urban planning

While Łódź can manage development within its jurisdiction, it has no direct influence on adjacent municipalities

Łódź is part of a larger metropolitan system that links communes of varying size, population and wealth. Within the region (voivodeship), Łódź is by far the largest and wealthiest city, and has the most administrative capacity. The subset of municipalities in the region that are adjacent to Łódź tend to be strongly connected to the city in terms of employment flows, retail activity and their use of services provided in Łódź. Because of the high degree of interconnectedness there should be a strong interest in co-ordinated development.

However, while the regional authority can establish a development and planning strategy that cuts across the member municipalities, these documents are not enforceable, even if agreed upon. Moreover, since own-source revenue from households and firms is an important share of local government revenue, there is a strong incentive for competition among the municipalities for economic development. This includes new housing development and attraction of new businesses. As a result, “leap-frog” development is already occurring and if Łódź tightens its planning

process to encourage development in the urban core, it risks losing even more households and firms to adjacent municipalities.

Free-riding by rural communes on Łódź’s public services exacerbates the cost of service delivery

Increased development just outside the administrative boundary of a region is a common phenomenon in many OECD countries. The larger city may gain from an increased volume of economic activity, but if the individual firms and households do not contribute to the cost of the infrastructure and public services that residents are using, then both efficiency costs and equity issues arise.

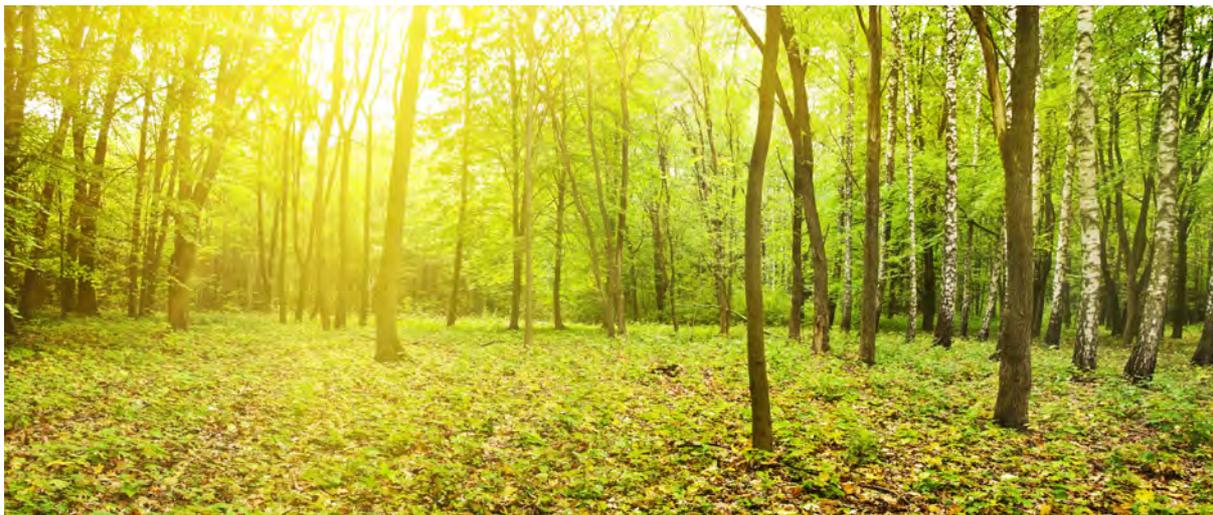
This situation creates a dilemma for Łódź. On the one hand, it wants to achieve urban redevelopment and must rely on stronger spatial planning to encourage greater use of the core. On the other hand, tighter restrictions within the administrative boundaries of Łódź will increase the incentive for leap-frogging and damage the prospects for the urban redevelopment strategy.

The current structure only offers the possibility of a voluntary or collaborative solution for the dilemma

Under the current system of national planning and municipal governance Łódź has no capacity to play a direct role in the planning decisions of other municipalities despite any adverse impact it may experience from their decisions. In this setting, the municipality should try to establish close co-ordination and co-operation mechanisms with neighbouring municipalities even if they are not underpinned by an enforceable legal framework. OECD research has shown that metropolitan areas where such mechanisms exist have developed more compactly than those where they do not exist (Ahrend et al., 2014).

If Łódź has excess infrastructure and service delivery capacity, then it can benefit from additional use if it can collect additional revenue

Developing a broader metropolitan structure to deliver services could be advantageous for Łódź. This could provide a framework for joint funding of the services and because the extent and quality of services available are an important factor in the location choices of individuals and firms, such an agreement could also become a way to alter location choices. Clearly this only works if there is a win-win outcome for both parties, but since Łódź now lacks the ability to directly influence the development choices of its peers it must seek alternative pathways.



Recommendations

From the national down to the local levels, new legislation and emerging practices are leading to a more effective and participatory system of land-use governance. For instance, newly adopted national legislation has established a mechanism for metropolitan association – i.e. planning across a metropolitan area. Meanwhile, practices from Łódź indicate that the municipality is working to develop a sustainable and vibrant city in consultation

with its residents. While there are many promising practices and reforms, some elements of the planning system undermine its effectiveness. The following points offer some guidance on how to make the planning system more coherent and robust for both the overarching system of land-use governance in Poland, and specificities related to the city of Łódź.

Łódź should fully explore the set of consequences associated with its revitalisation strategy

Łódź should undertake an assessment of the possible impediments and external shocks to its revitalisation strategy, and try to develop appropriate responses. To this end, there are several key considerations:

- How will the current low-income residents in the core be accommodated? Will they be housed in the core, or will they be relocated to another location? In the case of relocation, what are the social and economic considerations and repercussions of such a move – e.g. access to employment, disruption of community-based social networks?
- What are the implications of the strategy for property values outside the core and how will this impact current owners?
- To what extent will the ongoing presence of a large stock of housing and proximate employment opportunities provide a viable alternative to a core location?
- To what extent is city-driven development through its own property in the core either an impediment to private sector development or a positive factor?
- Improving transport networks is a key part of the development strategy and improved connectivity is central for a logistics function, but better connectivity also allows easier outflows. This seems especially relevant given that Łódź is close to Warsaw and Warsaw is a much larger agglomeration that may come to absorb Łódź. How might this affect the city and its current strategy?
- How would the revitalisation strategy be affected if Łódź is successful in becoming an assembly hub and attracts new investment, but these firms demand locations outside the area Łódź has designated?

A co-operative approach to co-ordinating development and service delivery with surrounding communes offers the best hope for Łódź to achieve its development objectives

Łódź must play a lead role in building greater co-operation with surrounding communes. Łódź has both the greatest capacity to support co-operation and the greatest interest in seeing it become effective. But for co-operation to happen, all parties must perceive some benefits. In the case of Łódź this may require accepting that new development will occur in other municipalities but with agreements that free-riding on services provided by Łódź be resolved through an enforceable regional service delivery agreement.

Incentives for planning based on functional urban areas should be enhanced

Frameworks set at the national level in Poland have widely adopted the importance of planning based on functional urban areas and stress the need for integrated approaches. Such a lens is present in both the National Urban Policy in 2023 (2015) and the National Spatial Development Concept 2030. However, at the local level, there are a number of challenges to implementing such practices.

Local governments have a high degree of independence to manage their jurisdictional domains. While some governance structures exist to collaborate on transportation issues or shared services, these tend to be voluntary and to have limited functions. While local government competition can have benefits, such competition can also incentivise sprawl, as is seen in the case of Łódź and its surrounding locales. This can lead to an inefficient use of

land, including adjacent developments with incompatible uses (e.g. animal husbandry next to residential developments), developments that are poorly linked to wastewater, sewage, waterline and transportation systems and infrastructure, and developments which are fiscally unsustainable to service.

The spatial strategies of urban and rural areas need to be coherently linked. The European Union's integrated territorial investments (ITI) in Poland encourage integrated spatial planning across functional urban areas. It is important that such investments be based on the good land-use practices that have been described in plans and strategies at the national, regional and local levels, such as developing brownfield sites in advance of greenfield ones, permitting developments only in areas where there is existing infrastructure to support them, and protecting agricultural lands, forested areas and watersheds. Through ITIs, municipalities are required to form collaborative bodies (municipal association agreements) in order to forward projects of metropolitan importance and to access investments. This mechanism has greatly facilitated municipal co-operation. It will be very important to institutionalise these practices in order to encourage such cooperation in the longer term (beyond the life of the ITIs). This could include special incentives for metropolitan co-operation such as dedicated funding streams for such projects.

However, where such collaborative planning is driven by voluntary local government associations, there is the risk that only certain types of issues – those that are less contentious and mutually benefit local actors – will be addressed, leaving substantive issues with little scope for action.

Different governance structures can help address such problems, for example the creation of two-tiered metropolitan government, the adoption of regional special purpose bodies, or greater involvement by regions in certain elements of spatial and sectoral planning. The recently passed Metropolitan Association Act (2015) offers yet another potential solution in this regard. It establishes a legal framework for metropolitan co-operation. For any such structure, the system of incentives and disincentives that are created should be assessed.

Polish municipalities are not alone in needing to tackle these issues. Metropolitan areas across OECD countries struggle to establish frameworks of co-operation to deal with joint issues that can last in times of both spending and constraint. OECD research has demonstrated the importance of overcoming such obstacles to find lasting cooperation. For example, an analysis of cities in five OECD countries found that those with fragmented governance structures tend to have lower levels of productivity (Ahrend et al., 2014).



Łódź has a growing culture of public engagement – better communication with residents and more opportunities for mutual decision making will enhance this function

Łódź has a growing culture of public engagement in decision making on spatial policy and land management. Given the pace of change in the city, it is increasingly important that public engagement practices be nurtured and strengthened so that citizens feel informed of and included in the changes that affect their daily lives. At present these practices are sometimes inconsistent, which sends mixed signals to residents. Related to this, communications information should be shared in a more accessible manner and greater efforts could be made to engage underrepresented individuals. This is particularly important as the city is in the midst of regeneration of socially deprived areas in the city centre.

Meaningfully involving citizens in decision making requires engagement at an early stage in the process (before decisions are locked in) as well as political buy-in, well structured engagement activities, monitoring, evaluation and regular reporting. A central group (centre of expertise) to support such endeavours could help build this capacity.

The links between spatial and sectoral plans at the local level should be strengthened

Land use and development policies are connected to a wide range of other policy areas such as transportation planning, climate change adaptation and mitigation, and the provision of social services. Where strategies are integrated or aligned, they are likely to be more effective in meeting their goals. Presently, there is no general requirement that

spatial plans be integrated with sectoral ones. However, the newly adopted Revitalisation Act (2015) encourages such integration in designated revitalisation zones, which is a promising practice and one that could be expanded upon.

Implementation of such an approach demands collaborative ways of working across departments. This requires a reorientation of day-to-day work practices. At present, OECD analysis indicates that different departments within one local government sometimes work at cross purposes. Integrated objectives, projects, monitoring, evaluation and communication can help realign such practices. It is particularly important that economic development plans and climate change strategies are linked to spatial ones and that such strategies are assessed and revised on a continual basis to ensure that they are reactive to changing conditions.

Local spatial development plan coverage should be increased and reliance on the planning decision mechanism should be reduced in the short term, and eliminated in the longer term

Local spatial development plans present an important signal to individuals and investors regarding how an area will develop into the future. They articulate a future planning vision and help mediate land-use conflicts before they occur. The low level of plan coverage in Łódź undermines these important functions.

Łódź has forwarded an integrated development plan which sets out its strategic goals to the year 2020; these include a sustainable and compact urban form and a flourishing city centre. It cannot meet these goals without the

coverage of local spatial development plans and the abolishment of planning by decision. Since national rules shape this process, this is an issue for national reform as well.

Beyond plans, Łódź should also employ a broader range of tools, particularly fiscal ones, to manage the issues it is facing

Łódź should explore a broader range of tools that can be used for land-use governance. Planning is largely a tool that restricts choices. It can effectively block or constrain the actions of individual households and firms. But it does not alter preferences, which ultimately shape behaviour. In parallel with planning, there should be efforts to increase the attractiveness of the urban core to households and firms, but also recognition that many households and firms will continue to prefer an alternative location.

In addition to planning there is the possibility to use market forces directly, offer incentives that can alter preferences, use taxes or subsidies to alter the costs that individual firms and households incur with different decisions. For example, user fees are a market solution that could be explored as a way to address free-riding on public services. If these fees are differentiated for residents and non-residents of Łódź, they also provide a cost differential signal to location choices. As a major property owner in the urban core, the city could provide development incentives to private firms that invest in the restoration of housing or other types of buildings. Such incentives might include zoning variances, expedited building permission or other non-monetary factors that can trigger a change in preferences. Finally, there is the potential to use financial instruments in the form of taxes or subsidies to alter the costs of certain actions. In this respect Łódź is significantly

constrained by Polish laws but it may be able to find specific charges or subsidies it can adopt.

Links between spatial planning and demographic, socio-economic, and fiscal analysis and forecasting will be critical for the city's resilience

The tandem trends of deconcentration and depopulation are well acknowledged in the city's spatial planning strategy. However, at present, the city is not meeting its goals in addressing these trends by reorienting land-use practices around a denser and more concentrated urban form which would facilitate infrastructure development and service delivery. There are institutional barriers to doing so and more tools are needed to meet these aims.

Given this, it is important that local spatial development plans, and above this the strategic "studies" that guide them, are effectively used to promote fiscal sustainability. Appropriate and effective land uses can ensure that residents have access to transportation networks, infrastructure and services. Land-use planning should make the most of



existing services and corridors as opposed to opening up new areas to development, which will then require new public investments and ongoing upgrades and servicing. Municipalities with declining populations need to make the most of shrinking budgets. Coherent land use strategies have an important role to play in addressing these challenges. In the longer term, the city may need to take such measures as decommissioning unused buildings or infrastructure.

Related to this, it is extremely important that land-use planning and an assessment of capital projects are linked. Capital projects are long-lived infrastructure projects such as water and wastewater, streets, community facilities or social housing. It is very common in municipalities for capital budgeting processes to be determined by engineers or financial analysts, but spatial planners should also be involved and decisions about capital assets should be made in conformity with spatial plans. This is critically important in Łódź where major investments are being made today that will impose significant operational costs in the future. The financial, social, environmental and spatial sustainability of the city must be considered in tandem, as one element impacts upon the other.

Indicators related to spatial development objectives should be developed, monitored, reported and evaluated on an ongoing basis

Łódź's spatial strategy describes the overarching development of the city based on three zones (inner, middle, outer). The city's spatial strategy would benefit from the development of key indicators that can be monitored over time to assess whether or not planning objectives are realised. In particular, Łódź seeks a more compact urban form and targeted density scenarios should be

developed for each zone. Such indicators are an important part of policy formulation and will also communicate to residents whether or not key elements of the strategy are in fact being met. This pertains to rural areas as well – indicators should be created to monitor spatial planning objectives and report back to citizens. This may include indicators on changing land use, new investments and environmental protection.

The connection between the plans at different scales – national, regional, local – could be strengthened, particularly in the case of local and regional plans

Poland's multi-level system of spatial strategies and plans are meant to complement one another and mutually reinforce core objectives with higher order plans providing input and guidance to lower order ones. In practice, OECD analysis shows that the links between the three are sometimes inconsistent, and in particular, that regional spatial development plans are poorly linked to local ones; their co-ordination is limited only to public purpose investments of regional significance for which regional governments have purview. This lack of co-ordination across plans is one of the major spatial problems facing Poland.

As a whole, Poland's spatial planning framework can be made more effective by improving the integration of plans at different levels; introducing clear forecasting, monitoring and evaluation frameworks linked to strategic goals and objectives; and better communicating outcomes between governmental actors and to citizens.

Special infrastructural acts should be integrated into the planning system

The national government has created special infrastructural acts for public investment projects of national importance – e.g. major roads, railroads, airports and infrastructure development related to special events, such as the Euro Football Championships in 2012. These acts expedite significant projects. This has been instrumental in helping Poland to take advantage of investments funded through EU structural funds. However, these acts suspend common local planning law. They can be implemented even where they are contradictory to the aims of a local spatial strategy; they create special rules for expropriation; and they can bypass certain planning procedures (such as public engagement). While these acts were initially meant to be used for a limited time only (several years), they are now permanent. The ease of their application has created an incentive to use them. While originally intended to be used in extraordinary circumstances, projects forwarded under the acts are now commonplace. This mechanism is overused.

The function of these acts as a separate system should be examined. The way they are presently structured creates a parallel system that undermines the overarching planning framework, including confidence in due process. Regional and local authorities are not always well-informed of investments under these acts and investment decisions are not

well-connected to local needs and conditions. In the short term, special infrastructural acts should be revised to limit their application to only necessary investments. In the longer term, these acts should be eliminated and developments should proceed through the regular planning system.

The system could be further strengthened by clarifying the right to develop visàvis property ownership rights along with the rules related to compensation rights

The link between property rights and the right to develop in Polish law is ambiguous. These rights are not clearly defined in the 2003 Spatial Planning and Development Act and as a result, courts are adjudicating the right to development as a core component of property rights. Further, Article 36 of the Planning Act grants compensation to owners if they are negatively affected (i.e. the value of a property is reduced) by a local spatial development plan. This creates a litigation chill over the adoption of new plans.

Compensation rules create a disincentive for local governments to develop land-use plans. Better rules need to be developed regarding the issue of compensation. Specifically, compensation rights should be limited to specific criteria such as compensation in the event of land expropriation and to specific timeframes. Presently, the right to seek compensation has an unlimited timeframe.





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