The Comparative Survey

Four Questions on the Reduction of Excessive Land Use

The Questions

Moritz Reese

As a crucial component and the legal core of its 'Thematic Strategy for Soil Protection' the European Commission has recently proposed a new European Directive on Soil Protection intended to encourage Member States to take more effective action against the various risks and causes of soil degradation. To this end, the Commission proposes a set of obligations aimed at ensuring comprehensive assessment and effective mitigation of the risks and impacts of contamination, salinisation, erosion, compaction, organic matter decline and landslides. Moreover, in view of the crucial significance of sealing as a factor of soil degradation, Article 5 introduces the following obligation:

'Sealing. For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall take appropriate measures to limit sealing or, where sealing is to be carried out, to mitigate its effects in particular by the use of construction techniques and products which will allow as many of those functions to be maintained.'

The latter (rather general) obligation leads to the questions of this issue's Comparative Survey which aims to explore the existing national approaches to preventing the excessive sealing of soils.

1. National aims and strategies

Are sealing and excessive use of the land acknowledged as major threats to the environment and as crucial challenges in terms of sustainable development in your national legal frameworks? Do specific targets (e.g. reduction of sealed surface per year) and strategies exist in this regard?

2. Measures of spatial planning

Does national/regional planning law set out any objectives and/or obligations regarding economical use of land resources, particularly in the face of dispersed settlements and construction activities? If so, would you say that these rules have significantly reduced surface sealing in the past?

3. Compensation measures

Are there any compensation rules in your national law obliging land users or the relevant administration to ensure that any sealing of surfaces is accompanied by an equal removal of sealing elsewhere?

4. Fiscal incentives

Does your national law provide positive or negative fiscal incentives relating to the sealing of land? Has a 'sealing levy' ever been discussed as a potential measure to promote economical use of the land?

Estonia

Kärt Vaarmari

1. National aims and strategies

The soil has been acknowledged as one of the most valuable nature resources in Estonian environmental strategies, but not directly in connection with the problem of excessive land use.

In the Estonian Environmental Strategy up to 2010, the issues of excessive land use and soil protection are not seen as related to each other – this is probably so because of Estonia’s low population density. Regarding land use, the strategy instead concentrates on the problem of the continual reduction of land in agricultural use (eg because of technogenic deposits – landfills, contaminated areas), but also mentions that there is insufficient data on land use. Regarding soil protection, decreasing soil fertility is seen as the main problem. The strategy also envisages the creation of a specific law for soil protection and a survey of the conditions of Estonia’s soils.
However, the implementation plan for this strategy does not envisage measures or financial means for legislative activities.

The new draft Environmental Strategy up to 2030 (presently going through Parliament), similarly to the current strategy, again considers the decrease in agricultural land as the main problem, but with a significant difference in that the new environmental strategy also draws attention to the problem of urbanisation and densification of settlements and the intensification of building activities in certain rural areas. The draft strategy finally treats soil and land-use as one topic, setting as the two main goals the environment-friendly use of the soil and the effectiveness and sustainable use of natural and cultural landscapes. However, the connection between these goals is not very strongly expressed. The draft implementation plan prescribes many soil-protection-related activities (e.g. by the end of 2013, Estonia should have a law for soil protection and use as well as an action plan for the sustainable use of soil etc), but regarding land use, general measures for the general protection of landscapes (within the meaning of the European Landscape Convention) and restoration of derelict areas have been envisaged.

Objectives for the development of settlements have also been determined in the national spatial plan, but again, not in order to prevent excessive land use, but rather in the context of unified regional development policies in order to avoid economic and social problems with border areas.

2. Measures of spatial planning

The Estonian Planning Act contains general provisions regarding the goals of spatial planning, but nothing specific. According to § 1(2), the purpose of the Act is to ‘ensure conditions which take into account the needs and interests of the widest possible range of members of society through balanced and sustainable spatial development, spatial planning, land use and building’.

There are four types of land-use plans:
- national spatial plan for the whole territory of the country;
- county plan for the territory of a county (Estonia has 15 counties);
- comprehensive plan for the territory of a local municipality;
- detailed plan for smaller areas within a municipality (mainly towns and cities).

Each plan in this hierarchy should give directions concerning the development of settlements at the relevant level, but the law itself does not give any indication as to what these directions should be. It merely prescribes that each of these plans (except detailed plans), should take account of sustainable development, the protection of nature resources and valuable agricultural land, and that, landscapes and natural and semi-natural biotic communities should be safeguarded.

The problems of excessive land use have become relevant at the local level (i.e., the level of comprehensive and detailed plans) and usually concern conflicts between proprietary rights and the public interest in the preservation of particular natural areas (i.e., parks, woods, coastal areas). Such conflicts are normally solved on a case-by-case basis.

3. Compensation measures

National law contains no compensation rules regarding obligations to ensure that the sealing of a surface is accompanied by an equal removal of sealing elsewhere.

4. Fiscal incentives

National law does not offer any fiscal incentives relating to the sealing of land.

Finland

Robert Utter

1. National aims and strategies

Sealing and excessive land use are acknowledged as possible threats to achieving a favourable living environment. However, the significance of the threat is perhaps not perceived as being of the highest order in a rather sparsely populated country.