



Formal and informal instruments and procedures in spatial planning

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Terms

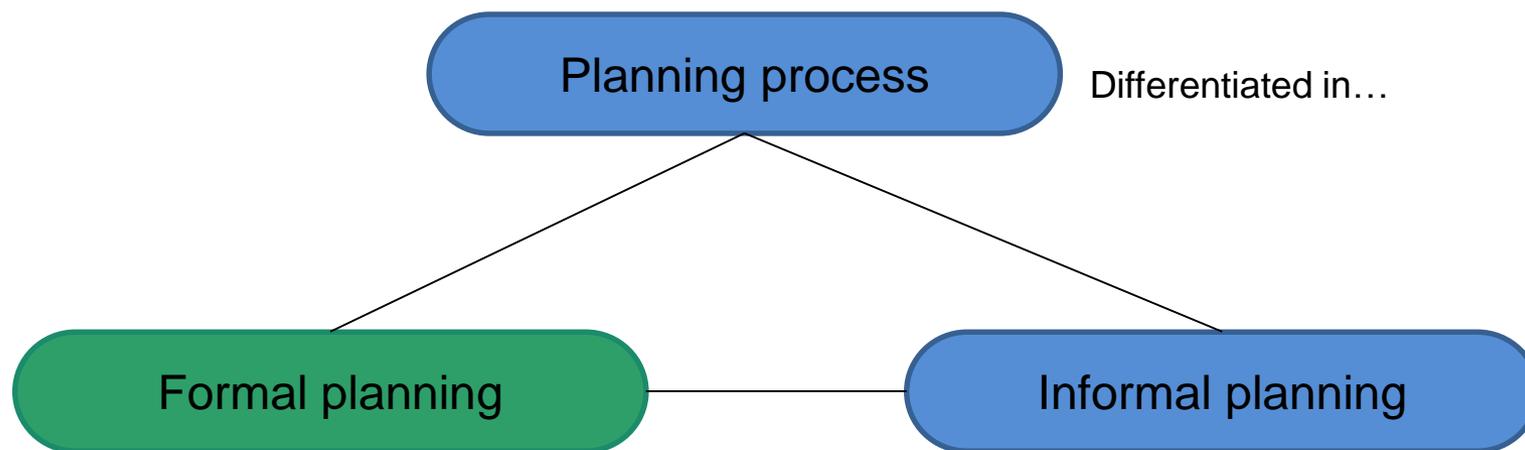
Formal planning instruments and procedures in spatial planning are regulated by public construction and planning law. They are characterised by defined procedural steps and participation structures. The catalogue of topics, to which planning statements have to be made, is given. A specific planning perimeter often requires comprehensive content-related statements. The planning result of formal planning creates a binding effect and therefore also planning security, depending on the instrument not only for authorities, but also for citizens.

Informal planning instruments and procedures do not underlie the fixed procedures of public planning law, so that they can be designed flexibly and matched to the conditions according to the occasion, the topic or the constellation of stakeholders. Informal planning is not regulated (in its accuracy) as much formal planning. Informal planning is indispensable for the preparation of formal planning as well as for many others.

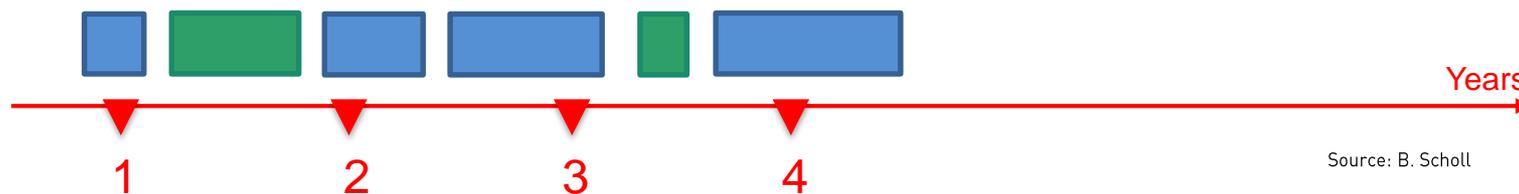


Tasks and instruments

Organisations and instruments should be designed according to their tasks and not the other way around.



Usually: combination of formal and informal elements



Source: B. Scholl

Sadly, practical application often neglects this maxim!



Planning process

- A planning process is known as procedure (as a sequence of actions and decisions), chosen during a specific time frame and following specific rules, to clarify and solve tasks of spatial relevance.
- Planning processes usually consist of legally defined procedures and instruments (formal planning) and instruments and procedures created specifically for the task (informal planning).
- Clarifying formal and informal procedural elements and their combination is part of the clarifying process in spatial planning.



Formal instruments and procedures – Legal framework

Formal planning instruments and procedures in spatial planning are regulated by public construction and planning law. They are characterised by defined procedural steps and participation structures. The catalogue of topics, to which planning statements have to be made, is given. A specific planning perimeter often requires comprehensive content-related statements. The planning result of formal planning creates a binding effect and therefore also planning security, depending on the instrument not only for authorities, but also for citizens (after Paul-Weber 2010).

Formal procedures and instruments are defined in national and cantonal law (especially in the Spatial Planning Act and the cantonal construction and planning laws). The laws are extended with ordinances, which regulate the application of the laws, e.g. the Spatial Planning Ordinance SPO as an ordinance to the Spatial Planning Act SPA.

Formelle Verfahren und Instrumente – Formelles Planungssystem in der Schweiz

State / planning level	Amount	Legal foundations (nominal spatial planning law)	Important planning instruments	Important content and tasks	Functional spatial planning law)
Confederation	1	<ul style="list-style-type: none"> Swiss Federal Constitution Spatial Planning Act Spatial Planning Ordinance 	<ul style="list-style-type: none"> Concepts Sectoral plans 	<ul style="list-style-type: none"> Basic principles (e.g. determining general planning guidelines and goals, concepts, federal inventories etc.) Creates sectoral plans Coordinates all federal activities with spatial relevance Coordinates, checks and approves cantonal guiding planning 	<ul style="list-style-type: none"> Various federal acts with spatial impact (e.g. USG, NHG, WEG, WaG etc.)
Canton	26	<ul style="list-style-type: none"> Spatial Planning Act Cantonal building and planning laws 	<ul style="list-style-type: none"> Cantonal guiding plans Cantonal land use plans and special land use plans 	<ul style="list-style-type: none"> Main player in spatial planning Basic principles (e.g. guidelines, concepts, inventories etc.) Creates and publishes authority-binding cantonal guiding plan (instrument of coordination) Coordinates, checks and approves communal land use planning 	<ul style="list-style-type: none"> Various cantonal acts with spatial impact
Region		<ul style="list-style-type: none"> Spatial Planning Act Cantonal building and planning laws 	<ul style="list-style-type: none"> Regional guiding plans 	<ul style="list-style-type: none"> Assume communal spatial planning tasks as private-public planning associations (no proper political level) 	
Commune	2'352	<ul style="list-style-type: none"> Spatial Planning Act Cantonal building and planning laws 	<ul style="list-style-type: none"> Communal guiding plans Zoning plans (local development plans) Communal building and zoning regulations Communal special land use plans / special building regulations (e.g. district plans, design plans or infrastructure provision plans) 	<ul style="list-style-type: none"> Basic principles (e.g. guidelines, inventories, authority-binding communal guiding plan) Creates communal land use planning (extensive, plot-specific and landowner-binding localisation und dimensioning of legally approvable usage types and intensities, minimal differentiation in constructional, agricultural and protection zones) 	<ul style="list-style-type: none"> Various communal acts with spatial impact



Formal procedures and instruments – Tasks

Establish planning security and ensure construction area supply.

- Protect right of property
- Set development goals
- Establish legal security
- Create construction law
- Ensure access development
- Regulate building development

Specifying and implementing framework conditions for decisions and actions of the stakeholders.

- Define conditions for use (e.g. provision and disposal)
- Enforce usage constraints (e.g. minimal distances to enable illumination and ventilation)
- Enforce interests of the community (e.g. dispossession of areas)



Informal instruments and procedures – Definition

Tasks of spatial relevance have different peculiarities and features. Therefore, task-specific organisations and instruments are required to solve them. Along with the formal ones, there are a multitude of so-called informal instruments and procedures, which can be used flexibly depending on the requirements.

The essential feature of differentiation to formal planning is that the procedure of informal planning isn't as accurately defined as in formal planning (...). Informal planning is indispensable for the preparation of formal planning as well as for many others.
(...)

Informal planning instruments and procedures do not underlie the fixed procedures of public planning law, so that they can be designed flexibly and matched to the conditions according to the occasion, the topic or the constellation of stakeholders. This includes the possibility to revise and correct the procedure during the planning process.

(after Pahl-Weber 2010)



Informal instruments and procedures – Tasks

- Expose conflicts
- Explore solutions
- Discard solutions
- Negotiate compromises
- Create acceptance



Informal instruments and procedures – Relevance

The relevance of informal instruments and procedures is increasing. Project tasks and especially core tasks require both – informal and formal – procedure types. During informal procedures, the necessary formal procedures and their timing can be determined.

Even if informal planning generally isn't legally binding, it can become so through a ruling by the corresponding committees in the communes/regions/cantons. This can be seen in formal planning procedures, when a goal for a plan is taken over from informal planning. Furthermore, informal planning can be a decision aid when implementing formal plans for building projects, it can be used to steer public or private funds or development funds. (...)

The results of the negotiations are not formally binding, but informal procedures aim at the impact of persuasion and a change of mind of the people involved. The principle of self commitment of the involved actors is applied.

(according to Pahl-Weber 2010)



Informal instruments and procedures – Diversity of planning types and procedures I

Planning procedures and types can e.g. be differentiated in:

- Expert procedures, competition procedures, dialogue-oriented procedures and cooperation procedures without binding status
- City development concepts, village development plans, regional development concepts with binding status

(according to Pahl-Weber 2010)



Informal instruments and procedures – Diversity of planning types and procedures II

If differentiated by the intensity of interaction of the stakeholders:

- In dialogue-oriented procedures and cooperation procedures the degree of interaction is the highest. The public doesn't necessarily have to be the contracting entity or initiator, there is also citizen planning, planning initiatives of the civil society and the private economy. Currently, an increase of such initiatives can be observed, combined with an increasing effort of experts to further establish these (especially in inventory planning).
- In an expert or competition procedure (competitions) the level of interaction is usually lower. Depending on the decision of the contracting entity – private persons, enterprises or the public – the cooperation of different departments and fields, the involvement of citizens or of specific stakeholders can be specified.

(according to Pahl-Weber 2010)



Formal and informal instruments and procedures I

Formal planning

- Formal procedures and instruments (plans and programs) are mid- to long-term framework conditions with a largely passive character.
- This is reasonable on the level of supra-local planning (country, canton, region), e.g. for the distinction of settlement areas and open areas and to give the communes a mid-term security for certain dispositions.
- Formal procedures often turn out to be politically sensitive and only restrictedly implementable.
- Additionally, they have a rather restrictive character.
- Examples of formal procedures and instruments:
Guiding planning, special land use plans, building and zoning regulations, planning permission procedures, sectoral plan, assignable floor area ratio, distances to waters etc. .



Formal and informal instruments and procedures II

Informal planning

- Informal planning uses instruments and procedures that try to find a consensus and cooperation between the stakeholders through other means.
- This may happen e.g. through temporary „round tables“ or the cultivation and use of permanent networks.
- Informal planning procedures are characterised by a high flexibility regarding areas of application and organisation.
- From a formal standpoint, their binding effect is limited. However, if the people involved reach acceptable solutions, the self-commitment of the stakeholders caters for an entry of the gained insights into the formal procedures (in the field of responsibility of the respective stakeholder).
- Examples of informal procedures and instruments:
Mediation procedures, planning workshops, conference on the future, test planning planning cell, citizen reports, Charrette procedures, regional conferences, city development concepts etc.



Formal and informal procedures and instruments – Comparison

	Informal instruments and procedures	Formal instruments and procedures
Process-based organisation	Process-based organisation can be chosen freely.	Mandatory process rules, e.g.: - Communal land use planning (zoning plan) - Cantonal guiding planning
„Products“	Products are designable.	Often precise requirements for the product
Organisational structure	Organisational structure can be chosen freely.	Mandatory rules on who has to be involved (see legal framework).
Application	Is often used to prepare formal procedures and to gain basic information.	Is often indispensable for approvals and decisions.

Source: according to B. Scholl



Formal and informal procedures and instruments – Advantages and disadvantages I

The **advantages** of informal procedures lie in the high flexibility with respects to the choice of the procedure, the effort, the display and presentation of the results and therewith also the possibility to design planning processes and content based on the situation.

A reaction on specific planning challenges or problems can be made without having to make overall statements to all topics relevant to planning.

If planning statements are reached by dialogue of relevant stakeholders in informal procedures, then this raises the probability of a possible future implementation of the planning results. However, it is not guaranteed. Especially in politics, there is the dilemma where decisions are prepared in informal procedures, but the decisions are made in political committees and thereby another logic, political acting, is used. This is why often results are worked out with cooperation of the political actors, but refuse to vote or even vote against the plan during the political decision.

On the other side, it also occurs, especially in the informal planning procedure, that the different, hardened political positions can be broken up and a consensus can be reached that is actually taken into account during the decision-making process.

(according to Pahl-Weber 2010)



Formal and informal procedures and instruments – Advantages and disadvantages I

The **disadvantages** of informal procedures lie in their dependency on a formal implementation on the one side, especially in rather less cooperation-intense procedures, and in their dependency on cooperation-readiness of the involved stakeholders and a general interest to find a common solution on the other side. This is why criticism has been voiced against communes that lose time after having successfully completed competition procedures when implementing in formal planning and thereby possibly allow comprehensive changes to the competition result. (...)

Informal plannings with a high proportion of dialogue can create a high uncertainty with respects to the planning result because of diverse interests. This is why in heavy conflict cases informal procedures, which also include mediation next to dialogue are the best choice to avoid legal disputes.

In these cases, compromises are often taken into account, in order not to delay the continuation of the procedure. The danger of these cooperative procedures furthermore lies in their selectivity and exclusivity. It can possibly lead to preliminary-decision structures, which prepare planning decisions so specifically that potential formal procedures only have to confirm the decisions made during the informal procedure, thereby omitting the procedural openness.

It is undisputed that a superiority of informal procedures cannot be accepted, rather both procedural methods have to be applied complementarily so that the advantages and disadvantages can be compensated.

(according to Pahl-Weber 2010)



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