

Culture of participation in integrated urban development

**Working paper of the Working group on Public Participa-
tion by the German Association of Cities**

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Preliminary remarks

In cities and smaller local authorities, the public are better able to experience democratic decision processes and can play a more direct role in shaping them than at other levels in the state. Joint creation through public participation is a constituent element of living representative democracy and an essential precondition for sustainable, integrated urban development. It legitimates majority decisions by the city council as an expression of the public interest and improves the quality and acceptance of planning measures. At the same time, however, public participation also increases the complexity of planning and decision processes and the need for skills and resources. This presents special challenges for administration and politics.

In recent years public discussion has shown an increasing focus on public participation. This has been prompted, for example, by major projects like Stuttgart 21 (moving the central station underground) or the expansion of the airports in Frankfurt and Munich. However, “angry citizens” with their strong media presence are by no means representative. Instead there is a great potential of citizens who, while criticising decisions which they do not regard as transparent, still take part in open dialogues in the search for “better solutions”.

Various forms of public participation in urban development have long been a matter-of-course element of local authority practice.

This applies not only to informal strategies and plans, but also to statutory procedures, e.g. the preparation of land use and zoning plans (physical development planning) and sectoral planning. Particularly in the fields of urban refurbishment or urban renewal and when drawing up integrated urban (district) development strategies, a wealth of positive experience has been gained with activating participation procedures and innovative methods. Evidently there is no lack of suitable participation instruments, but in many cases there is rather a lack of agreement on binding rules and quality standards, i.e. on an over-arching culture of participation.

Furthermore, practical experience points to a number of conflicts and fundamental issues which require in-depth discussion and which rule out the possibility of finding simple “one-fits-all” solutions:

- The dilemma of “double legitimation” for planning decisions by democratically legitimated decision bodies and by the citizens themselves – possibly through a referendum – may lead to disappointment and a lack of mutual acceptance. This raises the issue of how much direct democracy is compatible with representative democracy.
- The often fruitless search for the “right time” and for suitable stratification of public participation and means of safeguarding the results, in order to avoid “endless loops” of discussion starting again from the beginning right up to the time the excavators move in.
- The conflict between the widespread desire for faster, more transparent and less complex planning procedures and the increasing density of statutory requirements, and also the demand for full public involvement – which requires additional skills, and human and physical resources.
- The conflict between the interests, time schedules and legal positions of private investors and the claim to ensure participation procedures with an open outcome.
- The increasing importance of preceding or accompanying planning and participation procedures, combined with additional resource needs and interface problems.

The existing position paper “Culture of Participation in Integrated Urban Development” does not focus primarily on individual methods and instruments of public participation. There are innumerable publications on this subject, some of which are documented in the Bibliography.

An up-to-date cross-section of innovative model procedures is also provided by the award-winning projects submitted by the Federal Ministry of Transport, Building and Urban Affairs (BMVBS) as part of the National Urban Development Policy (project appeal "Public Participation", "Civic Foundation Prize").

This position paper focuses largely on the framework of conditions and opportunities for further development of a comprehensive culture of participation at local authority level, regardless of individual model projects. It pursues the following central ideas:

- Participation as a central element in local authority democracy and integrated urban development.
- Further development of local authority participation culture in the interests of legitimation and broad acceptance of plans and decisions.
- Activation of all social groups, equal opportunity in participation.
- Quality standards for participation processes.

1. Social policy context: Public participation in a state of crisis?

1.1. Changing values, financial crisis, new understanding of the state

Over the last decade there have been significant changes in the framework of conditions for local authority politics and urban development, and hence also in the challenges for public participation (cf. Deutscher Städtetag 2011; Busch 2009: 1):

- **Globalisation:** The internationalisation of economic activity and the growing dominance of “the markets” are increasing competition between locations and fostering a narrow economic view of state activities. The dependence of urban development on private, global investors and/or financial markets is increasing. This also applies to the property markets; international investors often act in a profit-oriented manner and without feeling under any obligation to urban society and the specific local conditions.
- **Changing values:** Individualisation and pluralisation of lifestyles, increasing anonymity and heterogeneity of society are pushing the public interest into the background in favour of the realisation of personal lifestyle choices. Major social organisations such as trade unions, religions, parties or associations are losing their power to bind people together. They are having less and less success in their efforts to bundle and structure individual interests.
At the same time growing social and economic inequality is making it more difficult for people to participate in social life and thereby ultimately resulting in a split in society.
- **Demographic change:** Ageing populations and, in many cities, declining population numbers are having an impact on all areas of public activity; areas particularly affected are the infrastructure and the economic and social systems. At the same time the proportion of well-educated and trained people of employable age is dwindling.
- **New media culture:** Today, electronic mass media are all-pervading and are bringing fundamental changes in communication culture. As a platform for communication, interaction and participation, Web 2.0 offers totally new interaction potential: anyone can play an active part, create networks and use interactive communication tools. On the other hand there is also a risk that the use of internet-based communication media may increase the “social divide”, “because the already resource-rich forces in society are able to gain the greatest benefit from the expanded information and communication infrastructure”. (Sarcinelli 2011: 26).
- **Structural financial crisis of local authorities:** Policies of privatisation and deregulation of state and local authority activities which in some cases have been pursued as a last resort (despite unfavourable experience) are having the result that in more and more fields public interest services are being provided by the market rather than by state or local authorities, which in turn are confining themselves to staking out the framework and guaranteeing a certain basic level of services (state as guarantor). It is not uncommon for cities and smaller local authorities to be in a position where the only way they can perform these tasks is by selling assets. This development and state budget safeguard strategies and emergency budgets are further restricting local authorities’ organisation and planning powers and dramatically curtailing their freedom of action.
- **Growing influence of the EU:** International agreements are restricting the freedom of action of public bodies at national and local authority level. Some 70 per cent of all EU rules have a direct or indirect influence on local authority activities (cf. Schmalstieg 2009: 1).

In conclusion, it may be stated “that the roles and functions of the state, local authorities, markets and society – after decades of apparent stability – are shifting, though it is impossible as yet to say where these shifts will end” (Selle 2007a: 14). At any rate, in recent

years there has been a marked increase in the influence of investors and project developers on urban development, thereby reducing the scope for effective public participation on a level playing-field basis.

1.2. Growing readiness to participate – Obstacles to participation

Under these conditions, all moves to ensure increased public participation and satisfy the calls for greater transparency of planning and decision processes will face great challenges and involve huge efforts. Despite a wide variety of participation forms and opportunities to have their say, growing numbers of the public evidently have the impression that changes in their living environment are being decided over their heads and that the interests of less assertive groups are falling by the wayside. This often puts those people at a disadvantage who are on the losing side of the educational system. “Thus social inequality also has an impact on political equality” (Koop et al. 2011: 107). The result is widespread scepticism about political institutions and actors.

At the same time there is a growing desire for greater opportunities for participation. A survey by the Bertelsmann Foundation revealed that 80 per cent of respondents wanted more opportunities for participation and a greater say in the political process. As many as 60 per cent of these respondents also said they were ready to participate actively in the form of public petitions, discussion forums or hearings (Bertelsmann Change 2011: 18). The great readiness to participate on the one hand and the dissatisfaction with the established political decision systems on the other make “a new agreement on forms of local democracy and a local culture of participation ... necessary” (Bock et al. 2011: 16).

It is therefore not surprising that many suggestions for resolving the dilemma relate to instruments of direct democracy (e.g. public petitions, referendums) or discursive methods (e.g. participatory budgeting, public panel) and also to self-organised campaigns such as civic action groups, signature lists etc. to supplement the established instruments of representative democracy. Only a few – mostly very complicated – methods succeed in achieving adequate representativeness in public participation.

Moreover, citizens who want to take part in planning processes are confronted with increasingly complex situations and with restrictions on local authority freedom of action due to legal or financial dictates by the German state or the European Union. Complicated planning processes frequently dragging on for years are often linked with not very transparent decisions in the political field. Such procedures give rise to great frustration on the part of interested and active citizens, many of whom lose interest and turn to other topics.

1.3. Civil society und urban governance: Refining the culture of participation?

The core idea of urban governance is “that socially relevant decisions are not taken by the state alone, but are the result of negotiating processes in which state actors are certainly involved, but are not by any means in control of everything” (Nuisl/Hilsberg 2009: 5). Thus in the ideal case the urban governance approach involves **trilateral forms of cooperation** between the local authority, industry and the public (Romeike 2009: 41), whereas in practice one tends to find bilateral forms.

Increasingly, developments at local authority level as well are no longer susceptible to direct or sole political control and are subject to many different forms of civil society influence through participation and discussion. Round tables, forums, Agenda 21 initiatives and various forms of networks are steps towards governance, but are no substitute for traditional government structures. “They have the formal status of preliminary decision groups. But to arrive at legitimated decisions they still depend on the legitimated political and administrative structures, in other word council, mayor and administration” (Fürst 2007: 6).

In participation research, the **governance approach** is discussed in connection with the “citizens’ community” as a further step in modernising the administration (after the “organisation community” and the “service community”) (cf. Sinning, 2005, 579 ff.). Its special features are:

- **Citizens are at the focus** of the community; administrative activities are geared to the citizen.
- Citizens are not only recipients, but also “**co-producers**” of services and thus make an active contribution to local authority issues. This means they bear joint responsibility for the decisions made with their participation.

In this strategy the public sector has the task of promoting and strengthening the assumption of social responsibility by citizens. As well as providing the legal structures, consistent public orientation with the aim of a reliable culture of participation is a major pillar of local authority activity. This means that the methods and techniques must be adapted to the different target groups. If necessary, special resources must also be made available so that citizens can successfully take control of their own affairs (cf. also Deutscher Bundestag 2002a: 33).

Whether this **model of the citizens’ community** is viable in practice is an open question. Critics argue that ultimately it is only a matter of using voluntary engagement to relieve the pressure on public budgets, justifying privatisation of public interest services, or seeking public understanding for cuts in services. On the other hand it might have a positive effect, in that it enables people to experience democracy in practice (cf. Romeike 2009: 106 ff).

There is much to suggest that the **trend towards “civil society”** has long since started in many fields of local authority action. It is quite possible to link representative democracy with the innovative approaches of the “citizens’ community” or “urban governance”. To enable state and society to act together in the spirit of a citizens’ community and urban governance, it is necessary, while observing Article 28(2) of the German constitution, to find rules that permit extensive integration of and participation by citizens and industry, such as adoption by the local council of master bylaws containing “frameworks and foundations for democratic processes” in the community. (Hill 2005: 573). Urban governance can only develop where a “communicative planning culture” exists, which presupposes a “reliable climate of readiness to engage in dialogue” (Selle 2007b: 70).

Approaches to a **good and practicable participation culture** exist in many cities with the implementation of urban refurbishment projects (especially under the “Social City” programme), which as a rule are based on a holistic approach (cf. Difu 2003). The development and implementation of integrated urban development strategies also offers a variety of starting points for further development towards more public orientation and participation culture. Within the local authority administration, integrated urban development planning provides a suitable platform for systematic and strategic development of a culture of involving the public in local planning and decision processes. It is equally concerned with the economic, environmental, social and cultural dimensions of the sustainable city (cf. Deutscher Städtetag 2011). Greater integration of the public will lead to changes in the work of the full-time administration, its self-image and its functions – not least because one can assume that there will be a substantial need for support (cf. Romeike 2009: 108).

2. Cornerstones of a culture of participation and planning

2.1. Potential and objectives

By systematically linking planning and decision processes with suitable communication methods, a strategic and cooperative urban development management system can make valuable contributions to developing and improving a local culture of participation. The political and administrative levels are called upon to satisfy the following criteria in particular:

- Recognising the **diversity of interests** and the self-determination and participation needs of the public.
- Involving **all social and cultural groups** of the public.
- Providing early and **comprehensive information** about plans and projects envisaged.
- **Valuing and using the experience** and know-how of citizens in all planning and decision processes.
- **Cooperative preparation** of decision material for the city council in a public, open-outcome discussion.
- Making **economical use** of scarce city resources – both in procedures and in suggested solutions.
- Drawing up **reliable and binding rules** for participation procedures.

The objectives for further development of a local authority culture of planning and participation can be described as follows:

1. Enabling **participation in urban development** by means of
 - **Early information about** issues, methods, connections and especially decision rules. Information is a precondition for all participation methods, since it promotes the transparency – and hence acceptance – of political decisions. Information must be freely accessible to all actors. In practice this has so far been difficult to ensure, although the technical ways and means certainly exist. Here there is a need for a paradigm change in the information culture of public administrations.
 - **Consultation**, i.e. affected and interested parties contribute their ideas for strategies and projects. They identify with the project, advise the decision makers with their local and specific knowledge, and also take responsibility for this cooperation. If the public's elected representatives actively encourage this kind of political consultation, they will actually strengthen their role as decision makers in the local authority process.
 - **Cooperation**, i.e. parties concerned can take decisions within a prescribed framework, as is already possible when using district-specific budgets in the "Social City" programme. In this way they accept responsibility for measures and projects. Decisions are negotiated in open-outcome participation processes; local authority, citizens, industry and other actors are equal-ranking partners in this process. This far-reaching form of participation presupposes a planning and participation culture with generally accepted standards and rules.
2. Achieving **better-quality results**: Incorporating knowledge and information from the various actors makes different view and objectives transparent. This could improve knowledge about the preconditions for planning work, and hence its results, or enlarge the set of common interests. This is also the case even if no consensus is reached in the course of participation.

3. **Acceptance** of urban development strategies and measures: Broad agreement on planning projects will make them easier to implement and reduce the input necessary for political and legal conflict resolution. It also builds up trust, which in turn is the basis for successful cooperation in the future. This can make for smoother planning processes. (Busch 2009: 96-97).
4. **Joint responsibility** of the actors involved for jointly achieved results: This presupposes a readiness on the part of administration and politicians to ensure extensive integration of citizens in decisions or to delegate decisions to them within a defined framework.
5. **Activating ongoing interest** in the city as a community: Working on a wide range of urban development issues leads to learning processes and hence to an expansion of skills on the part of all concerned. These learning processes relate not only to technical aspects, but especially to experiences such as voicing one's own interests, standing up for them, accepting responsibility for them, and thereby playing a growing part in urban development.

2.2. Activation as a precondition for a culture of participation

In our cities there is a great potential of citizens who can profitably be activated for urban development. According to various surveys, the majority of the population would like to have a greater say in shaping their own living environment and are prepared to engage with such issues. This trend has actually increased in recent years. This raises the question of why it is usually only a limited circle of people ("professional citizens") who actually engage with local public participation matters (cf. Bertelsmann Stiftung 2009). Indeed, Klages find that there is an "almost unparalleled 'deficit' in the field of local public participation" (Klages 2007: 11). Experience shows that less well educated households, women, migrants, older people, juveniles and people with no previous knowledge of the subject tend to be underrepresented at public participation events. This results in **inadequate representativeness** of the results of participation processes.

Conventional participation procedures (as a rule moderated participation events) presuppose certain skills – for example a specific ability to abstract and articulate – and are therefore seen as "middle class oriented". There is a risk of their being dominated by particularly eloquent citizens and their specific interests. Activating citizens in the lead-up to participation processes is therefore one of the preconditions for successful participation. Activation can be taken to mean – initially on a non-project-specific level – "all techniques that can be used to approach individuals or groups of people (...) and get them communicating (with each other)" (Böhme/Franke 2011: 23). As far as possible, all population groups – regardless of education, age, gender, origin etc. – should be given **equal opportunity to participate**. A precondition for this is a target group specific approach, especially to citizens who (for various reasons) are less active. In particular, addressing migrants and educationally disadvantaged groups usually requires intensive and innovative approaches in order to overcome cultural and language barriers. The spectrum of activation techniques available is broad – it ranges from doorstep conversations through regular contact with multipliers to public meetings and citizens' platforms, from activating surveys to local festivals. Many elements can be borrowed from social and youth work, which have a focus on calling work.

However, extensive activation of this kind, which has to take place ahead of project-specific public participation, involves considerable use of administration resources (personnel, time), which brings us back to the problem of local authority finances. This fundamental dilemma ultimately raises the question of a participation strategy run jointly by politics and administration, which regulates not only the objectives, scale, organisation and management of participation, but also the related financial issues.

There are **no patent recipes** for reaching as many citizens as possible; but there is plenty of scope for experiment. One crucial factor is that when planning public participation it is important to consider how to reach as many citizens as possible so that the opportunities for access are basically equal for all.

2.3. Changed view of the roles of politicians and administration

It is a long time since politics at all levels could claim to determine the issues to be dealt with on its own. In a pluralistic, globalised and media-networked society there are **numerous civil society organisations** (networks, associations, societies etc.) in industry and the general public which not only want to express their views, but also want to have a say in decisions. On the other hand, in a representative democracy only the **elected city councillors** are legitimated (and obliged) to take decisions in the public interest (Art. 28(2) of the German Constitution). Representative democracy does not allow a group of citizens or members of associations or networks to take decisions which are binding on everyone. This can only be done by the local government bodies legitimated by democratic elections. As a result, more far-reaching forms of participation as in the urban governance approach come up against the limits of classic democratic legitimation (cf. Hill, 2005, 567).

Public participation can nevertheless be a considerable enrichment for representative democracy. It has a creative function in that it makes citizens' ideas and different interests and the resulting conflicts of objectives transparent for all concerned. It strengthens the role of the public, but also the role of the elected city councillors as persons responsible for decisions. This gives them a new competency in **process management and process control**. Some people still have fears about loss of power, pressure of time, communication problems etc. if they allow public participation. Only if there is a productive interaction between the public, the networks and institutional politics and industry is it possible to avoid conflicts between these actors and the elected local government representatives, who continue to have the final powers of decision.

In particular, the administration is called upon to create greater transparency by making it easier for third parties to understand complicated decision processes. It needs to become a learning, listening and **facilitating administration**. This also involves ensuring clarity about the roles and functions of the various actors. Web 2.0, social media and open data can support this process so that the interested citizen always has an opportunity to find out facts and get involved. Local authority practice still has a long way to go to achieve this ideal (cf. Sarcinelli 2011: 38 ff.). In future the role of local government will increasingly consist in fostering existing public potential, moderating processes, agreeing democratic rules, communicating information in appropriate ways for the addressees, and activating sections of the public who tend not to participate.

How the role of politics and administration is seen also includes the question of the importance of direct democracy methods as a supplement to representative democracy. Today local **public petitions and referendums** are possible in all federal Länder, but there are substantial differences in the practical details, such as quorum, permitted subjects, deadlines etc. (cf. Wickel et al. 2011). The obstacles to be overcome before a referendum is held are in some cases very high and require great engagement from the public, especially to reach the quorum necessary for a referendum. As the question asked in the referendum requires the simple answer Yes or No, the question arises as to whether complex urban development problems are suitable for a referendum.

The model of the citizens' community is based on the assumption that where controversial and complicated issues are involved, a **discursive negotiation process** takes place between the various actors with the aim of reaching a consensus. Not until these possibilities have been exhausted without reaching a consensus should public petitions and referendums be used as formalised decision procedures for forming a majority.

2.4. Resources

It is obvious that a much expanded culture of participation ranging from specific projects to planning for the city as a whole will require considerable additional **input of time, human and physical resources** and thorough **process management**. Full public participation is not something that can be done “on the side” in addition to existing sectoral tasks. Indeed, it calls for professionalisation, i.e. additional human and financial resources and, if necessary, organisational modifications. The nature, scale and organisational place of participation management depend on the size of the city and the practical expression of the participation culture. In view of the difficult budget situation, the decision must also take the effectiveness and efficiency of administrative activities into account.

The following models are especially suitable for integrating process management and quality assurance for public participation in the organisation of the local administration:

- **Bundling in a staff department or an office reporting directly to the mayor**
The advantage of a central position, possibly closely dovetailed with PR work and/or urban development planning, is that it ensures a culture of participation geared to the city as a whole. For example, a public participation officer can identify participation-relevant issues in the administration, run the participation procedures in cooperation with the relevant departments and advise the latter. The expert know-how must however be contributed by the responsible sectoral departments, which must have the necessary human resources. It undoubtedly makes sense for the mayor to be responsible for cross-cutting topics such as “participatory budgeting”.
- **Central location in the building and/or planning department**
This is where the greatest experience exists with regard to the “classic” statutory participation procedures in particular (e.g. physical development planning), which in addition to public participation are also concerned with integrating other sectoral departments affected. Especially as regards new approaches to public participation, building and planning departments in particular already have a wealth of experience of informal planning activities such as those involved in integrated urban (district) development strategies, town planning framework plans and “Social City” projects.

Increased **e-participation** (Web 2.0, social media) calls for special organisational arrangements and, if necessary, changes in administrative workflows. Interactive online participation permits rapid, competent communication without lengthy internal consultation and suitably responsible and well-informed staff.

Project-specific **integration of external moderators** in participation processes is possible to supplement the administration’s own structures, but also as a means of transferring the entire process management. One advantage is the impartiality which is more likely to be attributed to external moderators, another is the targeted integration of specific sectoral expertise for a limited period. Even this, however, does not relieve the local authority of its own dedicated control tasks.

Conveying to the public the basic knowledge and communication skills necessary for a culture of participation is an ongoing task of schools and evening classes, but also of the planning administration. The administration for its part requires systematic **training** in order to perform its role as moderator and “negotiator” of the various interests. As well as a large measure of social skills, the staff of the planning administration should possess the following skills and experience in particular:

- Ability to **identify and activate target groups** for participation and suitably prepare relevant information.
- **Methodological competence:** e.g. moderation, mediation, project management and process management.
- **Media competence:** appropriate use of various media in keeping with target groups and topics, including e-participation (Web 2.0, social media).

Personnel numbers must be geared to the size of the city, the frequency, scale and content of public participation procedures, and the planned use of external experts. Building on this foundation, a separate budget is needed for PR work, workshops and hearings, citizens' appraisals, testing of innovative participation methods, online participation methods, reports and analyses (e.g. target group analyses) and for the supervision and evaluation of participation processes.

3. Culture of participation in (formal) planning procedures

3.1. Physical development planning under the Federal Building Code (BauGB)

Experience with early public participation since 1976

Participation in formal planning procedures is an aspect central to ensuring the quality of an open-outcome process of balancing interests, and hence also a precondition for legal reliability of the planning results. Decisions by the democratically legitimated bodies do not necessarily presuppose a consensus with the public and all parties affected by the planning. Proper balancing of interests within the meaning of Section 1 of the Federal Building Code (BauGB), and hence a competent decision, is achieved if there are no balancing deficits or disproportionate balancing (i.e. aspects were either incompletely investigated, or investigated but not properly weighed up) and if a balance is created between the properly investigated and weighted aspects that corresponds to the objective weighting of the aspects.

In 1976 the new Section 2a (now Section 3(1) of the Federal Building Code) in a revision of the Federal Building Act then in force (BBauG – since 1987 Federal Building Code (Baugesetzbuch – BauGB)) introduced a requirement for early public participation in physical development planning (land use and local development planning) prior to the exhibition of an elaborated draft plan. Based on experience with the Town Planning Promotion Act (Städtebauförderungsgesetz) and its provisions on the rights of participation and protection of the parties involved in refurbishment projects, the aim was to introduce the public to and involve them in the planning process for all planning projects at an earlier stage and with more comprehensive information. In the climate of reform in the late 1960s the arsenal of democratic town planning included various forms of participation such as neighbourhood work, advocacy planning and planning cells. Evidently people's readiness to reach a consensus or at least acceptable compromises did not grow to the same extent.

A significant aspect in Section 2a of the Federal Building Act was the emphasis on "timeliness" with the obligation to "set out the general objectives, purposes and impacts of the planning and to provide a general opportunity to express and discuss views in a hearing". What the legislature wanted was thus expressly a dialogue – including about planning alternatives – between all interested citizens (not only the parties affected) and the planning administration; in other words not merely written submission of "suggestions and objections", as is practised to the present day under the formal public exhibition of the draft plan (Section 3(2) of the Federal Building Code).

The timing of the early hearing is not tied to a precise stage in the planning; neither is its form regulated – then or now. Whereas early public participation often used to be practised on the basis of "as much as necessary, as little as possible", today it is regarded as a meaningful part of the planning process that serves the purpose of quality assurance and is carried out using a wide variety of methods – usually selected depending on the situation. The spectrum

of informal kinds of participation such as planning workshops, public inspections of the planning area or the establishment of working groups to accompany the planning process takes its place alongside the classic “frontal” forms of hearing events.

Perspectives for public participation in physical development planning procedures

Today the calls made at the time to include not only information, but also forms of dialogue in planning processes, has largely been put into practice. The repertoire of methods and tools for public participation has grown even larger: planning workshop, open space, future conference, hands-on planning, urban management – and, not least, e-participation by internet or social media). Although this caters extensively for the original demands for democratisation of town planning processes, it has not silenced the criticism of the forms of actual consensus building and it has not generally raised acceptance of decisions by the bodies with legitimate power to take them – in fact the reverse often seems to be the case. After all, a crisis of confidence in political decision structures is not exclusively a procedural matter.

Problems repeatedly arise regarding the “right time” for the start of public participation in a development planning procedure, which today is governed by Section 3(1) of the Federal Building Code. If, at a very early stage in the procedure, all the administration has to offer is situation inventories, general planning objectives and a host of unanswered questions, it will at best meet with a lack of interest and understanding on the part of the public, partly because they cannot (yet) see how the planning affects them. Or people suspect the administration of not presenting for discussion all the material it currently has available. On the other hand, if the administration does not address the public until it has concrete town planning drafts – e.g. as a result of a town planning competition –, it is not infrequently accused of having already taken its decisions and no longer being open to the results of discussions with the public.

If one thing is sure, it's that there is no ideal solution. In the context of a refined culture of participation it would at any rate seem necessary to make a start on transparent and confidence-inspiring public participation before the city council makes any binding decisions on key data, at least in the case of major plans with significant impacts on urban development and/or the parties concerned. Depending on the individual case, one could consider participation in drawing up the terms of reference for investigations by external experts, or participation in designing and running a (town planning) competition.

For example, drafts of structural strategies or master town plans which also show the integration of the specific planning area in the urban district could be taken as a basis for early public participation. This is the only credible way of showing the public that their contributions to the discussion at least have a chance of influencing town planning decisions and the choice of potential basic planning alternatives. In the case of major, complex and controversial physical planning procedures this means that a single “early hearing” is not enough. People will expect or demand further events before the final elaboration of a local development plan ready for exhibition, e.g. events dealing with the results of the town planning competition, the selection of alternatives, the discussion of traffic infrastructure development or of conflicts of objectives between a new building zone and nature and landscape conservation issues.

For city planning departments in particular, whose human resources have in any case suffered drastic reductions in recent years due to budget constraints in many cities, this creates a dilemma: on the one hand the demands by the construction and property industries, and also by large sections of the interested public and local politicians, for physical development planning procedures which are leaner, shorter and less personnel-intensive, but at the same time legally sound – and on the other, the increasingly clear calls from the public for even earlier public participation with an open outcome.

3.2. Statutory sectoral planning/ plan approval procedures

Public participation deficits in sectoral planning

Numerous projects with a great impact on citizens' living environments in the fields of transport infrastructure, energy generation and distribution, waste management and wastewater disposal, extraction of mineral resources etc. are subject to plan approval or plan authorisation procedures under sectoral legislation. Whereas local two-stage physical development planning ensures complex coverage of the planning area by the land-use plan and local development plans and also weighs up all affected (private and public) concerns against each other, sectoral planning procedures are geared to sectoral objectives and a specific project. The statutory provision for participation through public exhibition of the plans, and the possibility of raising objections if one's own affairs are affected, serves primarily to speed up the process and ensure legal certainty (preclusive effect in the event of later legal action against a plan approval decision). Integration with other spatial interests is mainly ensured by preceding spatial development plans (regional development plans or regional plans) or by regional planning procedures. Another important difference exists in the "concentration effect" of sectoral plan approval procedures, which bundle all necessary public-law authorisations and approvals for a project in a single administrative act. By contrast with local development plans, they provide the project developer with an enforceable building permit without any further procedural steps.

Where public participation is concerned, sectoral plan approval procedures involve a number of special conflicts and problems compared with local development planning:

- Participation by affected parties instead of participation by anyone: objections to a publicly exhibited project plan can effectively be made in the procedure if the project affects the rights of parties concerned (e.g. ownership, protection from emissions, health etc.).
- Early restriction to a specific project: there is no comparable investigation of alternatives including a zero option or, as an upstream decision in the plan approval procedure it remains invisible to the public in the procedure itself. By the time the planning documents are publicly exhibited and the hearing of the objections submitted is held, the course for the "official solution" worked out by the planners has often long been taken and is difficult to reverse or modify.
- Great detail and complexity of the combined planning and authorisation procedure: this makes it less transparent for lay persons, and hence more difficult for them to understand the plans.
- Long duration of plan approval procedures and often very large number of parties involved: together with the lack of transparency, this leads on the one hand to frustration and "participation fatigue" and on the other hand to strong public protest reactions when, after ten years (or more) the "excavators finally move in".
- Project developers and hearing and/or plan approval authorities often have little practice in dealing with the public: they tend to regard public participation as a spanner in the works of a speedy procedure and not as a necessary precondition for the quality and acceptance of the result.
- Unrealistic expectations on the part of cities and local authorities: as parties concerned in plan approval procedures, local authorities are involved both as custodians of the public interest and with regard to rights of their own (ownership; self-government rights such as municipal financial and planning powers). This means they are often confronted with situations where their citizens demand and expect that they will jointly represent their positions against a project or individual aspects of a project – ranging up to demands that they bear citizens' legal protection costs, or lend weight to citizens' interests by taking legal action against a plan approval decision.

An improved culture of participation in the case of sectoral planning procedures could make a significant contribution to peaceful resolution of conflicts of the kind that have accompanied major infrastructure projects in the recent past. In many cases it has been a question of basic issues concerning whether, and not just how, a project is to be implemented. However, the justification (“need”) for a planning project, e.g. in the case of highway or rail projects, often arises largely before a plan approval procedure, as a result of requirement plans or expansion plans which are sometimes decided by federal or regional legislation, and which are therefore not capable of being influenced by public participation.

Cornerstones of improved public participation in sectoral planning

Developing a new culture of participation in sectoral planning procedures has become a particularly topical and urgent matter in view of the German “Energiewende” (transformation of the energy system) and the resulting projects for generating renewable energy (e.g. wind farms) and distributing and storing energy (e.g. long-distance very high voltage transmission lines, pumped storage power stations). This presupposes a shift in approach by all parties concerned; the first priority is to inspire confidence by means of an open information policy and a “culture of listening” on the part of project developers. In particular, this must at an early stage include opportunities to engage in dialogue via the internet and in local events, e.g. structured workshops, citizens’ appraisals or mediation and moderation processes. Experience in other countries may provide ideas for optimising procedures, e.g. the “consultation procedure” in the context of project-specific legislation and budgeting procedures in Switzerland. The following **key points** are cornerstones of improved public participation in sectoral planning procedures:

- Before the start of a formal plan approval procedure there must be a broad and **easily understood review of requirements, locations and alternatives** (including the zero alternative). This could take the form of a regional planning procedure, or it could form part of a special preliminary procedure including a spatial impact assessment for projects exceeding a certain size and impact.
- Unlike in the past, this review of requirements, locations and alternatives, and hence the full justification of the planning for a specific project, should be the subject of a formal completion process, e.g. in the form of a “**basic project decision**”. This should be capable of review by the administrative courts – much like a preliminary decision in building law, which has a binding effect on certain aspects in the subsequent permit procedure and can be tested in the courts. This would require an addition or amendment to relevant legal instruments in the law of regional planning or administrative procedures. In the case of particularly controversial major projects, a “basic project decision” of this kind could also prompt a national or local referendum.
- In highly complex major projects under sectoral planning law, a transparent information policy and fair **moderation and mediation methods** alone may not be enough to offset the structurally inferior position of the general public. In special cases of conflict it should be possible to call in a “**public advocate**” who operates independently but is financed by the public sector.

This debate was initiated at the level of the federal legislature by the motion tabled by Baden-Württemberg on 3 March 2011, which led to the Bundesrat resolution on strengthening public participation in major projects, Bundesrat publication 135/11 of 4 March 2011. The existing draft of 29 February 2012 for an “Act to improve public participation and standardise plan approval procedures” provides for introducing “early public participation” into the Administrative Procedures Act for plan approval procedures (and plant authorisation procedures involving large numbers of affected parties) – on the lines of the early public participation in physical development planning (Section 3(1) of the Federal Building Code). This early public participation (information, opportunity to express views, discussion, communication of results to the responsible authority) should take place before the project developer submits an application. It serves to make the project known and to draw the project developer’s attention to potential problems. This is intended to relieve the pressure on

the actual authorisation or plan approval procedure and reduce the risk of decisions being contested in the courts. However, no obligation to organise early public participation is to be incorporated in the Administrative Procedures Act; where necessary, this is to be done in the relevant sectoral legislation.

This draft fails to satisfy the demands for increased public participation in sectoral planning and authorisation procedures. Early public participation should at least be a mandatory part of the procedure for the project developer. There should also be provisions requiring the project developer to take due account of the results of the early public participation in the subsequent course of the procedure, and setting out how this is to be recorded in transparent form in the plan approval documents.

The introduction of “early public participation” can only be regarded as a first step. It falls well short of the ideas outlined above for a genuine two-stage procedure for major infrastructure projects. A formal and independently contestable “basic project decision” in conjunction with the regional planning procedure as the formal completion of a review of requirements, locations and alternatives is the only way to increase the transparency of plan approval and authorisation procedures for complex infrastructure projects and make them accessible to a new culture of participation.

4. Quality standards for participation and decision processes

In German cities and municipalities there are many good examples of public information and public participation. However, these “islands of good examples” (Reimann 2012) cannot be regarded as evidence of a broadly based culture of local public participation. The precondition for an extensive culture of participation is an overarching strategy supported by the political and administrative levels. To date, however, such **basic guidelines for public participation** have only been introduced in a small number of cities.

To broaden ad hoc public participation into a local culture of participation and consolidate its position, it is necessary to take account of the sometimes widely differing demands of the various actors (public, politicians, administration) with regard to public participation and communication. Local participation culture needs **acceptance by political representatives** and the administration, and also **motivation to participate** on the part of the public. Above all, however, it needs the city to declare its political will, so that the actors can constantly mobilise the fresh efforts needed to consolidate participation.

In order to reach agreement on the parties’ divergent demands on the quality of public participation, there is a need for **verifiable quality standards**. For example, the public attach importance to the openness of the participation process. This presupposes low-threshold access to participation, and methods that are specific to target groups and planning types. The public also expect “good” public participation to ensure transparency and binding force, and a real prospect of actually achieving something by taking part. Decision makers in politics and administration primarily expect public participation to bring about – as quickly and sustainably as possible – a consensus, or at least a viable compromise, on a forthcoming decision. If the climate of opinion is complex or less clear, they are interested in obtaining reliable – i.e. representative – information. Thus depending on the point of view and the interests of the parties, participation will be measured by different standards and criteria (cf. Lüder-Busch 2009: 101).

The following is a brief description of central quality standards for a “good culture of participation and decision making”.

Change in role and self-image of politicians and administration

The quality of participation will largely be measured in terms of how seriously it is meant. One important key criterion is the fairness of the parties’ dealings with each other. Participation culture and objective exchange of arguments presuppose mutual respect and esteem. Trust can be established if politicians and administration see the process-based involvement of the

public as a help in dealing with the complex challenges of urban development. A precondition for this is a basic readiness on the part of politicians and administration to see their role in a different light, with a focus on cooperation instead of a widespread confrontational understanding of democracy (cf. Holtkamp, Bogumil, Kißler 2006: 67).

Transparency of the participation process and the scope for decisions

Participation should always start with a basic strategy with rules for the process. Closely related to this is the task of creating transparency – in relation to both the participation process and the (financial, legal and material) scope for decisions. Depending on the individual problem, the purpose of participation and participation processes needs to be transparent for those concerned and for interested outsiders: What kind of results are to be achieved? Why and how are the participants and methods chosen? How do the results of the participation process find their way into the decision processes of politicians and administration? An absolutely crucial aspect here is the need to communicate existing possibilities and limitations of participation in order to avoid misunderstandings and frustration.

Feedback on participation results

Providing the general public with feedback on the (interim) results is especially important to increase the transparency of participation processes for those members of the public who are not directly involved, and to reinforce the legitimacy of the results. Politicians and the administration in particular expect the results to provide representative information. However, representative and hence genuinely reliable information can only be expected if random methods are used to select the parties from the entire population, e.g. in a public survey, a citizens' panel, a citizens' appraisal or suitably structured civic forums. The call for representativeness cannot be confined to the question of a statistically valid picture of an "overall average", but results from the fact that it is normally necessary to assume a plurality of sometimes conflicting opinions. Feedback from the participation process to a broad public is intended to prevent situations where the opinions of those directly involved diverge too strongly from the prevailing opinion of the general public (cf. Klages 2011: 237).

Democratic rules

One basic precondition for constructive cooperation is agreement on rules for the participation process. In particular, these include dealing fairly with each other, deciding on the consensus principle (this may also mean agreeing to disagree), how the roles and tasks are divided among the actors (administration, politicians, parties concerned), the open-outcome nature of the participation process, how to deal with the press and the public.

Integration in the decision system and binding force of participation process

The timetable of the participation process must be synchronised with the political and administrative decision processes so that the results of participation can find their way into the decisions. In multi-stage processes it is necessary to ensure that the results of the preceding process phase are fed into the subsequent phases. New situations and developments in parallel processes need to be communicated to the parties involved in the other process.

Several cities (e.g. Heidelberg, Leipzig, Essen) are currently testing municipal rules for public participation that are intended to ensure the integration of participation processes in the overall political and administrative system and thereby improve the binding force of the procedural workflows. (cf. Bock, Reimann 2011: 17). The Heidelberg city council has recently unanimously adopted guidelines for collaborative public participation. The guidelines were drawn up by a working group consisting of representatives of the public, the city council and the administration. To date, constructive solutions have been found in all cases (cf. Stadt Heidelberg 2012. <http://www.heidelberg.de/buergerbeteiligung>).

5. Recommendations for cities – Demands to federal and Land authorities

5.1. Recommendations for cities

Participation culture status report

Cities are recommended to make a systematic scrutiny of the local participation and planning culture and to investigate the need to develop and refine it and ways and means of doing so. One possible approach might be to prepare a “balance sheet” of experience with different forms of public participation in integrated urban development and draw up a political and administrative assessment of the status of participation and planning culture. This “participation culture status report” should be published and discussed with the public and all other actors in the field of urban development. The aim is to identify deficits and establish the need for action and priorities for developing and improving the culture of participation and planning. This presupposes a systematic monitoring process, which is not yet in place in any city (cf. Nuisss/Hilsberg 2009).

Guidelines and local authority bylaws

As a possible consequence of a debate on developing and refining participation culture, cities are recommended to summarise the resulting steps and important quality standards for different types of planning processes in the form of guidelines. These guidelines should as far as possible be approved by the city council and thereby introduced with binding force as a basis for administrative action and as a voluntary undertaking by the political level. The guidelines can be linked with recommendations on methods and instruments in a “Participation Culture Manual”. This makes it possible to cater better for specific local features and experience than would be the case when using general handbooks on public participation methods. E-participation (Web 2.0, social media) should also be discussed in this manual, and rules laid down where necessary.

The “participation culture guidelines” should also be taken as basis for examining and discussing whether and, if so, which aspects of the guidelines should be developed into local bylaws on participation. Recent experience relating to guidelines and bylaws on public participation has been reported by various cities, e.g. Heidelberg, Regensburg and Leipzig.

Organisation and resources

Finally, when drawing up “guidelines on public participation”, cities are recommended to pay special attention to the questions of organisation and human and financial resources for developing and refining participation culture. Participation culture needs cross-cutting coordination within the administration (public participation management) and adequate human resources with suitably qualified staff. This also calls for systematic training in social and communications skills and the necessary knowledge about methods and instruments. Suitable physical resources are necessary for running moderated events (public workshops, citizens’ appraisals) and for exhibitions, publications and internet tools for public participation. In order to avoid disappointment and stress among affected parties due to expectations that cannot be fulfilled, it is absolutely essential that any improvements in public participation which are announced in the guidelines be backed up by appropriate human and physical resources.

5.2. Demands to federal and Land authorities

Promoting a culture of participation

The federal and Land authorities are called upon to continue the promotion of innovative model participation and cooperation procedures in urban development that was successfully started as part of the National Urban Development Policy, and especially to step up these efforts with the aim of developing a new culture of participation. The German government is called upon to make available, initially for five years from 2013 onwards, an additional annual amount of €25 million for assistance under the National Urban Development Policy. In many cities there is still a shortage of experience and technically refined tools that guarantee data protection and are legally secure, especially with regard to e-participation – internet and social media (twitter, facebook etc.). Model projects assisted by the German Government under the National Urban Development Policy would be particularly useful here. This would permit findings on whether there is a need for legislation to regulate e-participation and, if so, in what form. The federal Länder are also called upon to make additional resources available under their own programmes and/or to prioritise existing budgets accordingly.

In the context of promoting urban development, the German Government is called upon to cancel the considerable cuts in urban development promotion funds and, in particular, to step up the “Social City” programme which is especially successful and suitable for increased public participation and cooperative implementation of measures.

In the event of continuing cuts in federal funds, the Länder are called upon to examine, especially for the “Social City” programme, whether such cuts can be at least partially offset by raising Länder contributions to the promotion of urban development.

Single online participation platform, evaluation of participation procedures

The federal and Land authorities are called upon to establish a central internet platform as an immediate measure to improve the transparency of sectoral plan approval and authorisation procedures. This will enable the public to find out about existing responsibilities (Who plans? Who authorises?) and about ways and means (and their legal limits) of obtaining information and participating in all statutory planning and authorisation procedures.

The central participation platform should provide links to status information and planning documents for major infrastructure projects of more than local importance for which procedures are currently in progress. Experience with public participation in projects of this kind for which the federal or Land authorities are responsible should be systematically evaluated and the results should also be documented on the central participation platform.

Improving public participation in sectoral plan approval procedures

The German Government is called upon to considerably improve the opportunities for early and effective public participation in infrastructure projects involving substantial spatial and environmental impacts, and in comparable projects run by public and private developers. However, the planned early participation in sectoral plan approval procedures can only serve as a first step if it is made a mandatory part of the procedure. Furthermore the draft currently under discussion of an “Act to improve public participation and standardise plan approval procedures” must lay down that the project developer shall include the results of early public participation in qualified and documented form when preparing the plan approval documents, and that the authority responsible for the hearing or the plan approval authority shall acknowledge the results and take them into account in its decisions.

When implementing early participation, use should be made of suitable informal participation methods and instruments such as planning workshops, citizens’ appraisals, mediation methods etc., as well as e-participation instruments.

There is also a need to improve cooperation between the federal or Land authorities responsible for a sectoral plan approval or authorisation procedure, and the project developers and local authorities. Even in procedures that do not fall within the scope of local authority planning powers, the cities, municipalities and rural districts are often the first point

of call for members of the public seeking information or wishing to make suggestions or objections. Project developers and responsible authorities must actively provide information about the project, the procedure and competencies and responsibilities. If a local authority takes a critical view of a project, this must not result in the project developer and the competent authorities holding back information and refusing to cooperate in a constructive manner. Greater transparency and a better culture of participation in such sectoral plan approval procedures can only be achieved if the administrative level and the project developers involved work together constructively while maintaining their individual responsibilities and respecting each other's technical assessment of the project.

Fundamental reform of the plan approval procedure

As a second step, the German Government is furthermore called upon to initiate a fundamental reform of the plan approval procedure with regard to transparency and increased public participation. A two-stage procedure should as a rule be adopted to improve transparency and opportunities for public participation, especially with regard to plan justification (question of need) and the basic investigation of alternatives and locations. The first stage should link the regional planning procedure with the investigation of whether the plan is justified (investigation of alternatives including the zero alternative) and the basic determination of the location or line of the project. Extensive public participation making use of suitable informal participation methods and instruments should take place during this first stage. The initial result of the first stage should be to issue a "Basic Project Notice" capable of review by the administrative courts. Only on the basis of this can the project developer prepare detailed plan approval documents and submit a corresponding application.

Safeguarding local authority financial resources, observing principle of connexity

The preconditions for developing and improving the culture of participation are only met if local authorities are allowed unrestricted exercise of their options including local planning powers. Only if local authority financial resources are permanently guaranteed (especially maintaining and strengthening trade tax; fair apportionment of revenues) will it also be possible to avoid having to privatise further fields of public interest services and thereby render them inaccessible to public participation and influence. Furthermore, if local authorities are to maintain their freedom of action in relation to property ownership and investment projects, and thus maintain preconditions for increased public participation, it is essential for them to have reliable long-term tax revenue of their own that is commensurate with their functions.

Strict observance of the principle of connexity is necessary to prevent creeping erosion of local authority freedom of action by assigning tasks to local authorities without providing the necessary financial resources.

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Examples of innovative participation procedures

Public participation in urban development strategies

<http://eki-mannheim.de/>

<http://muenchen-mitdenken.de/>

<http://www.heidelberg.de/servlet/PB/menu/1211760/index.html>

<http://www.masterplan-koeln.de/>

http://www.essen.de/de/Rathaus/Aemter/Ordner_0116/essen2030/essen2030_start.jsp

http://www.regensburg.de/sixcms/media.php/121/buergerbeteiligung_schlussbericht_citycom_mai_2007.pdf

Participation platforms and networks

<http://www.essen2030.de/>

<http://weiterdenken.leipzig.de/lewd/>

<http://www.dresdner-debatte.de/>

<http://www.mannheim.de/stadt-gestalten/buergerbeteiligung>

http://www.koopstadt.de/fileadmin/user_upload/red/Dateien_fuer_allgemeine_Seiten/koopstadt_Beteiligung_web_Acrobat6.pdf

<http://www.netzwerk-buergerbeteiligung.de/>

Neighbourhood management and sponsorships

<http://www.qm-gruenau.de/index.php4?src=quartiersrat1&ebene=quartiersrat>

http://www.essen.de/de/Rathaus/Aemter/Ordner_0116/essen2030/essen2030_start.jsp

<http://www.regensburg.de/rathaus/aemteruebersicht/planungs-u-baureferat/amt-fuer-stadtentwicklung/stadterneuerung-und-wohnungswesen/a-das-obermuensterviertel-sanierungsgebiet/c-das-obermuensterviertel-ueffentlichkeitsarbeit/47357>

<http://www.mannheim.de/stadt-gestalten/quartiermanagement>

Building culture and project implementation

<http://www.stadtentwicklung.berlin.de/staedtebau/baukultur/iba/de/aktuelles.shtml>

<http://www.stadtentwicklung.berlin.de/planen/tempelhof/>

<http://www.muenchen.de/rathaus/Stadtverwaltung/Kulturreferat/Kreativquartier/Stadt-kreativ-denken.html>

Participatory budgeting

<http://www.buergerhaushalt-lichtenberg.de/>

<https://bonn-packts-an.de/>

<http://www.buergerhaushalt.org/>

Public participation by children and juveniles

http://www.sjr-mannheim.de/weisse_flecken

<http://beteiligung.majo.de/>

<http://www.mannheim.de/stadt-gestalten/spielleitplanung>

Public participation on traffic/transport

<http://www.nationaler-radverkehrsplan.de/neuigkeiten/news.php?id=2324>

http://www.essen.de/de/Rathaus/Aemter/Ordner_59/Laerm/Laerm_Onlinebeteiligung.html

<http://www.osnabrueck.de/76994.asp>

<http://www.leipzig.de/verkehrsplanung/>

Public participation on retail trade / vacant properties

<http://www.schumann-magistrale.de/mitgestalten/buergerbeteiligung/>

<http://www.mainz.de/WGAPublisher/online/html/default/hthn-8hndc4>

http://www.regensburg.de/sixcms/media.php/121/flyer_leitbild-einzelhandel_2008-08-16.pdf

Public participation on leisure areas

<http://www.stadtentwicklung.berlin.de/planen/staedtebau-projekte/gendarmenmarkt/index.shtml>

<http://www.stadt-koeln.de/6/gruen/11767/>

Public participation on the promotion of urban development

<http://www.sozialestadt-muenchen.de/>

<http://www.aktive-zentren-muenchen.de/>

<http://www.ortskern-ramersdorf.de/>