

# **Contribution of Spatial Planning to Affordable Housing in Austria**

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## **1 INTRODUCTION**

Developing the affordable housing stock is an ongoing political and social challenge with great relevance for ensuring equal living conditions and social peace. With the aim of providing a certain share of low priced dwellings, planning authorities seek to mobilise suitable plots of land and support developers with subsidies. These mechanisms are complex and therefore the coordinating board for planning in Austria, the Austrian Conference on Spatial Planning, started a so called ‘partnership’ by bringing relevant stakeholders together to evaluate the actual contribution of spatial planning to affordable housing. As a result, recommendations were formulated that now serve as policy guideline for the further development of planning instruments towards a flexible and demand orientated Affordable Housing production. The paper sums up the stakeholder discussion and depicts the current challenges and potentials spatial planning faces in Austria. Thereby, the paper contributes to the international discussion of developing planning instruments and approaches.

## **2 AFFORDABLE HOUSING IN A PLANNING PERSPECTIVE**

The production of a building stock holding affordable dwellings for people with low income or in difficult social situations represents a continuous and challenging state assignment. The political approaches and regulatory frameworks differ widely among countries and spatial planning has therefore a variable importance for Affordable Housing. Nevertheless, the provision of adequate housing gets discussed from

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international to local level and experiences large media interest. In 2016, the HABATIAT III conference in Quito, Chile reinvigorated the global commitment to a sustainable urbanisation and set the focus to the implementation of the 'New Urban Agenda'. This agenda got adopted in the end of 2016 (United Nations, 2016) and emphasises a sustainable urban development which amongst other goals aims to provide affordable and sustainable cities to foster prosperity and quality of life for all. Affordability plays an important role throughout the declaration and is also strongly associated with spatial planning to for instance facilitate a social mix. The subscribers also declare to "... encourage the development of policies, tools, mechanisms and financing models that promote access to a wide range of affordable, sustainable housing options ..." (United Nations, 2016). The New Urban Agenda illustrates the global commitment but needs ambitious national implementation now.

The European Union as a supranational organisation is authorised by the member states of to set union wide regulatory frameworks for sectoral subjects to foster economic cooperation and growth. Housing though is fully reserved to the member states and their national regulations. That also accounts for spatial planning which is an individual responsibility of the member states.

The Austrian approach to 'Affordable Housing' is strongly linked to political ideologies and the social, political and economic developments that have taken place in Vienna in the beginning of the 20th century. The liberal land market in the then empire lead to large scale real estate speculation, mass accommodation and terrible living conditions. The scarce housing supply combined with poor working conditions was a fertile soil for the social democratic movement. The doctor and publicist Victor Adler contributed with his reports strongly to a raising awareness and a political turnover (e.g. Adler, 1888). After the foundation of the first republic on 12th November 1918, Jakob Reumann became Vienna's first ever social democratic major. Part of a holistic social democratic reformative programme was a large-scale housing programme to end the drastic housing scarcity in Vienna and improve the hygienic conditions in the capital city (Podbrecky, 2013, p. 13). The federal state as well as the city of Vienna were almost broke after the war, therefore a new tax on luxury goods was introduced und tax revenues directly used for the housing programme. In the years 1919 to 1934 the city of Vienna was able to build 61.175 flats until the civil war ended the social democratic reign in Vienna (Podbrecky, 2013, p. 17). The city continued building dwellings after the 2nd World War and as a result, the municipality of Vienna owns today 27 per cent of the city's housing stock (Rumpfhuber et al, 2012). Throughout Austria, a system of subsidised housing production which is strongly influenced by the Viennese example, was established. Municipalities or limited-profit developers are getting large-scale subsidies for housing production but are at the same time bound to sell or rent dwellings at fixed prices considerably below the market level (Reinprecht, 2014). People in Austria spend on average less than 30 per cent of their income for housing.

In the whole discussion on Affordable Housing, the meaning and understanding of 'affordability' poses a challenge itself, because there is no mutual or common understanding amongst stakeholders and authorities. Nevertheless, the term is omnipresent in policy papers, guidelines and legal acts. The typical

analysis taking only 'ratios' of household incomes that are spent on living into account, cannot be used as a basis for well justified judgements, because incomes differ widely (Paris, 2007). The paper does not explore the concept of 'affordability' any further, but simply points out that although an intensive discussion took place in Austria and recommendations for Affordable Housing were formulated, the concept of 'affordability' remains to be fuzzy and lacks in definition.

The Austrian regulatory framework for subsidised housing production is beyond doubt sophisticated. Numerous legal acts on different legislative levels as well as many public authorities and private stakeholders form a multi-actor and multi-level framework, in which spatial planning in the narrow sense of allocating land uses, has a crucial strategic role. Ideal locations need to be identified, land needs to be zoned according to the actual demand and the development within certain planning horizons has to be secured. In case of Austria there is in fact no lack of building land in most regions that face an ongoing population-growth. The actual demand for dwellings could theoretically easily be satisfied but most of the undeveloped building land is simply not available on the market, because land use titles do not need to be claimed within a certain period of time. More than a quarter of the whole zoned building land in Austria is at the moment not developed and used for speculation or as an asset (ÖROK, 2014a). This building land is often centrally located, has a proper public infrastructure but is difficult to mobilise. At the same time, an expropriation title for housing exists, but is so far not applied and easily conflicts with the constitutionally guaranteed sacredness of property. Spatial Planning struggles on the one hand with existing land use titles that are consummated without any public consultation completely in the interest and perspective of the owner/s. On the other hand, building land is needed desperately and planning has to zone in appropriate amounts of land in the right locations. This happens predominantly on the municipal level, with a lack of regional coordination. Planning faces manifold challenges in its vital contribution to the provision of sufficient affordable dwellings and an evaluation of constraints as well as possibilities seems to be necessary.

### **3 EVALUATING SPATIAL PLANNING IN HOUSING PRODUCTION**

Every 10 years the 'Austrian Conference on Spatial Planning' publishes the 'Austrian Spatial Development Concept' (ÖREK) which serves as a national policy guideline in planning but has no legal liability for the provinces or municipalities. Nevertheless, the last concept in 2011 (ÖROK, 2011) addresses besides other current issues also Affordable Housing. Action 2.3 emphasizes a 'Quality-based approach to coping with growth' (ÖROK, 2011, p. 56) and Action 3.3 a 'Sustainable development of settlements and free space' (ÖROK, 2011, p. 70) both aiming for the implementation of integrative perceptions and policy implementations. To achieve this, an essential backbone of the ÖREK 2011 is the establishment of so called 'partnerships' involving relevant public authorities and stakeholders for specific topics in a discussion process. The 'partnership' for Affordable Housing was established in 2013 involving the Austrian Federal Chancellery, the Federal Ministry of Science, Research and Economy and 8 provinces as well as special interest groups (Austrian Economic Chambers, Chamber of Labour, Austrian Association of Cities and Towns, Austrian

Association of Municipalities, Austrian Trade Union Federation). The lead management was performed by the Federal Chancellery as the topic of Affordable Housing is essential on a national policy level but needs strong cooperation and specific adaption on provincial level. The fundamental aim was the formulation of recommendations and a policy guideline based on the analysis of the contribution of spatial planning to Affordable Housing with an evaluation of the legal situation and regulatory framework. The result of the partnership process were two studies, one on the connection of planning law and Affordable Housing and another on the role of civil planning contracts in planning, complemented by a set of recommendations. The actual implementation now relies strongly on the provinces that need to adapt their legal framework and supervise and support planning activities especially on the municipal level.

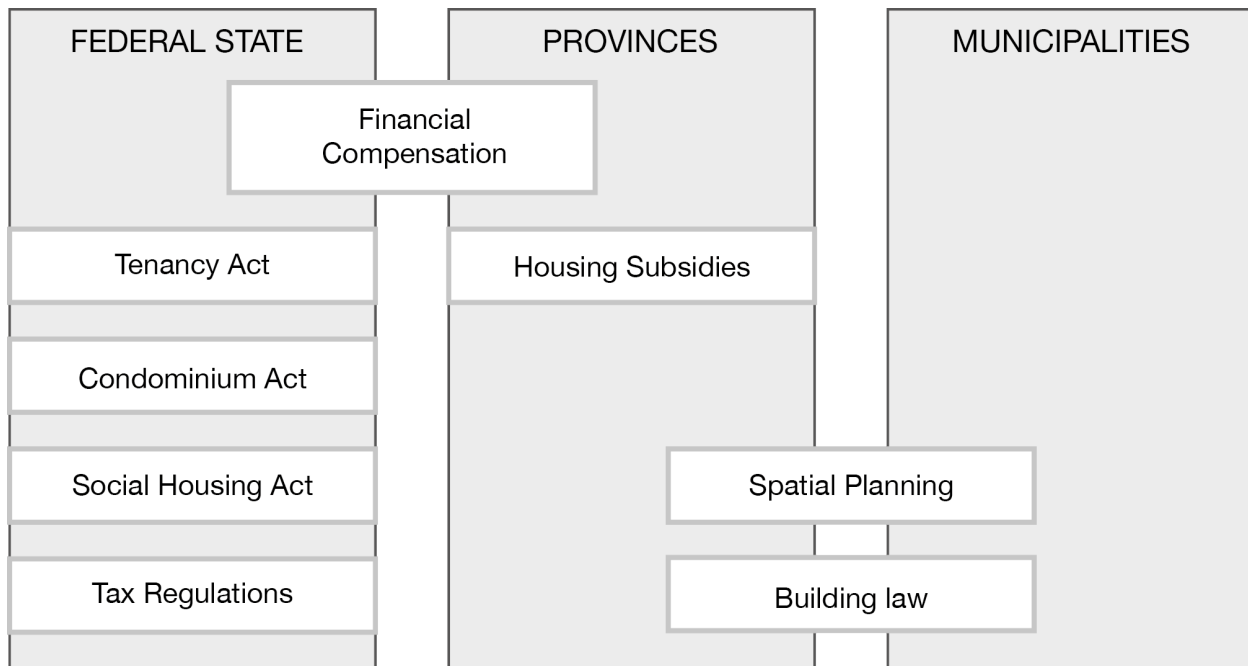
The carried-out evaluation of the contribution spatial planning has on Affordable Housing and which measures could be taken in the near future, is based firstly on the mentioned studies and secondly on the contributions of stakeholders in the discussion. The eventual recommendations were adopted consensually by the members of the 'Austrian Conference on Spatial Planning'. It needs to be mentioned that therefore the described outcomes are not based on a holistic scientific analysis but rather based on a political discourse and decision making process.

Spatial planning in Austria is a provincial assignment, which means that the federal state only holds the competences for certain sectoral planning activities enumerated in the Federal Constitutional Law. Residual planning tasks are carried out by the single provinces, which also means holding the responsibility for planning legislation and executive assignments. Due to this fragmentation, there exist 9 planning laws regulating spatial planning and development. In detail the goals, tool sets and procedures are alike among the provinces but differ considerably in detail because of the absence of a framing legal planning act on federal state level. At the same time, there does not exist any national binding concept for spatial development. This institutional and legal set up leads to a complex and diverse structure and inventory of planning instruments as well as strategies that also serve to support the provision of people with affordable dwellings.

### **3.1 PUBLIC AUTHORITIES IN AFFORDABLE HOUSING PRODUCTION**

The federal state regulates the tenancy act as well as the condominium act and has therein certain possibilities to steer market prices for renting and selling dwellings. For example, there is a fixed maximum rent in large parts of the building stock deriving from before 1945. Public Housing is also settled at federal state level and targets less well-off population groups, while housing subsidies are a responsibility in regulation and execution of the single provinces. The planning and building laws are passed by the provincial parliaments, but the actual execution of land use planning and the issuing of building permits is set on municipal level.

**Figure 1: Responsibilities and Institutions for housing and spatial planning**



As indicated in Figure 1 relevant responsibilities for Affordable Housing are dispersed which poses a challenge to politicians and public authorities in coordinating their actual actions in this field. The federal state holds the responsibility of regulating most of the essential legal framework and the single provinces receive tax money from the federal state to invest in housing subsidy programmes. In 2012, the provinces altogether spent about 2.5 billion Euros on loans and direct subsidies for housing production and restoration (Amann and Lugger, 2013). The municipalities have no direct influence on the regulatory framework but are nonetheless essential stakeholders for planning the built environment. The distribution of the state assignments within the federal republic is tightly set by the constitution and it is very unlikely that political majorities for alterations will be achieved in the near future. Therefore, improvement within the existing legal structures of administration and subsidies appears to be the ultimate strategy.

Austria has due to its federal structure a tradition in splitting up state assignments and allocating them to different public authorities and levels. As there does not exist a self-contained constitution, the Federal Constitutional Law (Bundes-Verfassungsgesetz, BGBl. Nr. 1/1930) assigns the legislative powers over public affairs to the federal or provincial governments. Public Housing – Volkswohnungswesen – is by Art. 11 Federal Constitutional Law to be regulated by the federal government and further executive laws to be adopted by the provincial governments. This means a common responsibility with a basic formulation of the goals and instruments on the upper and the executive legislation on the lower level. In 1974, the Land Acquisition Act (Bodenbeschaffungsgesetz, BGBl. Nr. 288/1974) was adopted by the parliament to define a regulatory framework for public housing. The Land Acquisition Act holds an expropriation title to obtain land for social housing production and provides thereby a valuable instrument in negotiations with land owners and for price regulation. Due to legal concerns the Land Acquisition Act was never put into practice by the provinces. This leads to the paradox situation that centrally located, zoned and undeveloped land

could theoretically be claimed for Affordable Housing but not a single attempt was undertaken to use the regulations in the Land Acquisition Act to actually secure land for Affordable Housing projects.

### **3.2 FIELDS OF ACTION TOWARDS AFFORDABLE HOUSING IN SPATIAL PLANING**

The mentioned partnership of authorities and stakeholders on Affordable Housing identified urgent fields of action in spatial planning to enhance a more effective and efficient provision of land for housing production. One essential outcome of the ‘partnership process’ is a set of recommendations based on the analysis of the status quo of planning in combination with an expert assessment and listing of the measures at a glance as follows (ÖROK, 2014b, pp. 15-19).

- (1) Affordable Housing needs to be established as a goal in spatial planning law,
- (2) Affordable Housing needs to be perceived as a regional planning-responsibility,
- (3) Specific land use categories for Affordable Housing should be established, the experiences be shared and criteria be defined,
- (4) Other planning instruments should support Affordable Housing by making appropriate densities possible,
- (5) Evaluation and enhancement of the role of civil contracts to acquire land for Affordable Housing,
- (6) Acquire suited undeveloped plots by a diverse set of instruments; limited dedication of building land; introduction of regulations for financial fees for infrastructure installation and maintenance; establishing the legal basis for land consolidation,
- (7) Evaluation of the responsibility for public housing and adaptation for actual implementation.

Complementary measures should be undertaken in the field of subsidies for Affordable Housing and tax incentives for owner to sell preferably to limited-profit developers should be taken into account.

The recommendations illustrate the urgent need for a holistic perspective in planning. Single improvements will have only small positive effects while the true capacity lies in an integrative and coordinated development. Goals and political aims need to be clear and stable on all levels and should then be legally adopted. Measures in different fields need to be undertaken simultaneously to have a maximum impact. The following chapter discusses several highlighted fields of action from a planning perspective and depicts the status quo and potential of certain instruments and measures.

### **3.3 PLANNING INSTRUMENTS FOR AFFORDABLE HOUSING**

Spatial planning is executed in Austria by the provinces as well as by the municipalities. Interestingly the municipalities hold a planning monopoly penetrated only by topics of superior public interest. This leads to a strong position of the municipal councils in planning decisions and to a local planning focus bound to administrative boarders. But people have a certain flexibility in their choice of residence depended on manifold reasons that are individually taken into consideration. Housing has therefore not a municipal but for the majority of people a regional quality. So the discussion of planning instruments should

be set on regional as well as municipal level to illustrate the actual possibilities of authorities to contribute to Affordable Housing.

### **3.3.1 INSTRUMENTS FOR AFFORDABLE HOUSING AT PROVINCIAL LEVEL**

The provinces are responsible for the planning legislation and are therefore the essential authority in defining the planning instruments and setting the planning goals. Each planning act contains overall goals for the intended spatial development and some refer to housing provision explicitly. One common goal in all provinces aims to satisfy the actual housing demand. Some laws specifically state that land should be affordable, the housing quality up to date and the share of residential use well-balanced to commercial use. But generally, the goals do not promote Affordable Housing as a priority field of action in planning. In operative planning, the provinces have the possibility to establish holistic or sectoral planning programmes and concepts. Some have already development concepts which explicitly refer to Affordable Housing but the discussion is still a basic one and besides overall aims and goals Affordable Housing plays an inferior role.

The regulation of Housing subsidies plays an essential role for Affordable Housing, but is not directly combined with planning measures referring to land use categories and titles or the provision with a sufficient technical infrastructure. Terms for financial aid are referring to the income situation of applicants or building characteristics and qualities. The actual location within villages or cities and the infrastructural characteristics don't get considered in subsidy regulations. The same accounts for planning strategies concerning the densification in city districts.

A fiscal instrument that some provinces have already introduced are taxes for the provision with infrastructure (roads, sewer network, water network etc.) that are also payable without a developed plot of land and get calculated by a basic cost multiplied by the square meters of the particular plot. The administration of this tax though is the responsibility of each municipality and an initial evaluation is just underway but no results so far available.

Another provincial instrument to assume a long term active role on the land market, is the installation of land funds. These funds help municipalities to buy land suitable for the construction of subsidised dwellings but operate strictly within the boundaries of economic feasibility and are not supported by tax money. Nevertheless, such funds can help to promote Affordable Housing in central locations with high living standards by providing money at the right time without any benefit interests.

### **3.3.2 INSTRUMENTS FOR AFFORDABLE HOUSING AT MUNICIPAL LEVEL**

The municipalities itself are in charge of forecasting their own future need for building land based on population prognosis and are responsible for land use planning and development plans. This means that municipalities are the key actors in steering the actual location of housing production on a local level. Due to the absence of a regional demand calculation and distribution mechanisms, municipalities are in fact carrying out their planning tasks independently and without a compulsory coordination. The housing production is

therefore dependent on the existing land use, the disposability of land on the market and the existence of an investor. Steering this process in a temporal dimension while achieving the production of a certain share of Affordable Housing is a challenging task that municipalities perform by using a set of planning instruments.

Land use planning represents the backbone of spatial planning which is offering exclusive land use categories to the owners of parcels. Planned constructions need to be according to the legal dimensions of such land use categories, but the decision, when and whether to develop building land is in the hands of the owners only. Establishing firstly land use titles for Affordable Housing and secondly ensuring the actual development poses therefore a challenge for municipalities.

A possible strategy is the use of the specific land use category “Reserved Areas for Affordable Housing”. Given that there is no expropriation title on the municipal level such reserved areas imply the reservation for the intended use for 10 to 20 years. The owners have the possibility to offer such plots to the municipality or limited-profit developers. The prices are due to the restricted use normally significantly lower. Nevertheless, the zoning of such areas always needs an actual demand and proper argumentation as a basis and cannot be simply used on a large scale to apply pressure on land prices. Four provinces have already introduced this land use category and others are discussing to do so as well.

A rather new measure in land use plans is the temporary zoning of building land. For newly zoned building land a certain time frame for the permitted development gets defined. This should put pressure on the owners either to sell or request a building permit themselves. The experience with this new approach is so far low and it's not yet possible to judge on the effect on land prices.

Another instrument on local level are land consolidations. Unfavourable plot shapes and a lack of public infrastructure pose a challenge to an effective development of certain areas. Consolidations exist meanwhile nearly in all provinces and are executed with increasing efforts. The main advantage is a cost-efficient consolidation for the participating land owners and safe-guarding a sufficient infrastructure. For responsible authorities, the procedure poses considerable costs and a positive completion can be at risk at any time, if participating owners impede the consolidation draft. A possible improvement to land consolidations in the future could be the compulsory dedication of a certain share of land to Affordable Housing projects according to subsidy regulations.

The nowadays perhaps most attended instrument in municipal spatial planning are planning contracts. Achieving certain goals by using time consuming and circumstantial administrative procedures faces its limits. Additional contracts based in civil law are meanwhile widely possible throughout Austria and are an important planning tool for municipalities. Via contracts the actual development within certain time frames can be assured and actual land uses commonly agreed on. The essential condition is the interdiction of a causal connection between the zoning act and content of the contract. Generally, the conformity with constitutional requirements is challenging if municipalities are using planning contracts on variable cases and furthermore contracts are so far often not applied in a transparent way. Nevertheless, such contracts have a



great potential to help foster Affordable Housing and can contribute to secure quality standards and realisation of actual projects.

As shown, municipalities have a variety of planning instruments to contribute to the provision of Affordable Housing. They can decide on project locations and indirectly influence land prices. The biggest challenge remains possibly the local perspective of planning authorities not taking regional developments into account.

#### **4 CONCLUDING REMARKS**

As the title of the article states, the contribution of planning to Affordable Housing is without doubt a big one. Real estate market logics and subsidies also have a crucial role in housing production, but are strongly linked to titles established by land use plans and planning restriction. The 'partnership process' and the formulated recommendations based on the 'Austrian Spatial Development Programme 2011' state clearly that there is already a wide variety of planning instruments but in many provinces the tool kit still needs to be expanded. The true benefit of the 'partnership process' was forming a communication platform, bringing different public authorities and stakeholders to a discussion table.

The evaluation of the planning contribution to Affordable Housing did furthermore clearly show that planning itself has no overall power but needs the coordination with other public sectors. Although legal regulations might pose the essential basis for the execution of efficient policies, the starting point is clearly the coordination and discussion among relevant stakeholders and introduction of a governance process.

The presented ongoing discussion in Austria could be perceived as a possible approach to assess and develop the regulatory framework for Affordable Housing and improve planning measures. The discussion and evaluation based on a national effort served as a starting point and politicians and authorities in the provinces and municipalities hopefully perpetuate this effort. Recent amendments of planning acts take the recommendations into account and indicate that the 'partnership process' was fruitful. An effective contribution by planning to Affordable Housing can especially be achieved by combining the listed instruments. This needs ambitious efforts on all political levels and a further holistic discussion on the regulatory framework for Affordable Housing.

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