

Changing spatial planning systems and the role of the regional government level; Comparing the Netherlands, Flanders and England

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Abstract

What does the changing spatial planning practice mean for formal planning systems in European countries? The focus in this paper is on the new role for the regional level taking into account the principles of *multi-level governance* and *subsidiarity*. We analyse the recent changes in the spatial planning systems of the Netherlands, Flanders (Belgium), and England. The choice of these countries was inspired by the fact that radical changes were recently implemented (England and Flanders) or proposed (Netherlands). While the focus in the new role for the English region is on planning instruments and the institutional framework for the strategic role, the Flemish province has become better equipped for both the strategy and the implementation role. In comparison with the other two countries, the Dutch province has already disposed of its competences for the strategic role, so that the changes involve a reinforcement of the implementation role.

Keywords: international comparison, spatial planning systems, planning instruments, region and province.

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1. Introduction

Spatial planning practice in European countries is changing. One of the reasons for this is that the role of the regional government is becoming more important. What does this change mean for the formal planning systems in these countries? This is the central issue of this paper.

Several changes in planning practice have influenced the role of the regional government:

- *Increasing influence of the European Union.* In relation to spatial planning, we concentrate here on the European guidelines, the structural funds which can be allocated to European regions, and the development of the ESDP (European Spatial Development Perspective). However, the EU does not have direct competences in the field of spatial planning. Healey and Williams (1993) (among others) argue that the two major forces in the change of planning systems are the EU policy sectors of environment and regional policy. The increasing European influence has consequences for the field of force in which the various government levels operate.
- *Changes in society.* Social, economic, and technological developments have their repercussions on spatial planning. Examples are individualization, globalization, and developments in the field of information and communication technology. One of the most striking developments is the disappearance of the hierarchic planning (based on the central places theory) of interaction patterns. There is evidence in society and in the economy of a continuous spatial increase in scale (reinforced by increasing mobility), which has repercussions on the level at which spatial issues are addressed; this level will increasingly be the region.

An enlargement of the role of regional government is only one of the challenges which European planning systems now have to face. Another development concerns the changed position of the public sector. After the Second World War, in many West-European countries the public sector took the lead in spatial planning. This situation changed in the 1980s and the public sector withdrew in favour of the private sector. This situation is often referred to as the shift from government to governance.

In the last few decades, the planning system has been the subject of radical discussion in a number of European countries. In this article we ascertain how three different countries have gone about dealing with the developments which have led to the new role of the regional level. In the background of these developments two concepts play an important part: *multi-level governance* – the changing field of force within which the government levels operate; and *subsidiarity* – which government level is the most appropriate for which competence.

The article is structured as follows. First, these two concepts are discussed. Then an analysis frame is presented and three countries are introduced, the planning systems of which are then discussed. The article concludes with an analysis and the conclusions drawn from the comparison of the developments in the three countries.

2. Multi-level governance

Spatial planning is becoming the responsibility of different levels of government. Castells (1996) was one of the first authors to stress the challenge to sovereign nation states of the processes of global and continental integration. At the same time the national political systems have witnessed a process of decentralization and regionalization, which leads to a more autonomous level of governance on the sub-national level (Keating, 2003). Blatter

(2004) points out that many people have commented on the interdependencies of these two processes and claims that regionalization within the nation states is strongly influenced by regional integration on the continental level (Tömmel, 2003). In consequence, we are witnessing a multiplication of layers of governance, a process which critical geographers have called 'multi-level governance' (Marks et al., 1996) or a 'multi-tiered system of governance' (Leibfried & Pierson, 1995). Pierre and Peters (2000, in: Böhme et al., 2004) also assert that "governance is increasingly 'multi-level', where international, national and sub-national processes of governance are interlinked in a negotiated fashion."

Regional policy within the EU accelerated the importance of the sub-national level. The European regional policy, which emerged at the end of the 1980s, focuses on economic and social improvements. Many important changes in the convergence and cohesion of regions have been brought about. Shifts towards multi-level governance in the 1990s increased the partnership principle with sub-national governments. But although regional disparities between countries have lessened, disparities between regions have increased on some measures (Getimis, 2003). It was realized through the increase in the differences within countries that these regions must be geared to function according to their own strengths and weaknesses. Partly as a result, the sub national or regional level has risen in importance.

But in the discourse on a European spatial planning system, the multi-level governance issue is also fundamental. This emergent European planning system extends over many spatial planning scales, from a supranational level to a local one (Figure 1) (Tewdwr-Jones et al. 2000; Tewdwr-Jones & Williams, 2001; Janin Rivolin & Faludi, 2005). European directives and policy have a territorial impact in areas such as transport, energy, and the environment. This is also acknowledged in the 2001 EC White Paper on European Governance (CEC, 2001).

In conclusion, we can say that, on the one hand a supranational level has arisen through the European unification, as has cross-border cooperation. On the other hand, a stronger regional level has emerged. In the policy field there is thus evidence of an extension of the number of scale levels, a situation to which the formal spatial planning system in the various countries has yet to be adapted.

3. Subsidiarity

The discourse on multi-level governance is partly linked to that on subsidiarity. Bordewijk (2005) indicates that the subsidiarity principle stems from the theory of collective expenditures; not every government decision has the same significance. The subsidiarity principle means that such decisions should be taken at the lowest possible level. Consequently, decisions must be taken as far as possible in agreement with the wishes of those for whom it is relevant, and to generate a maximal contribution to their prosperity. The principle took root with the increase in the responsibilities of the European Union and can also be traced back to the national discussions.

Jordan (1999) argued that, within the European context, *subsidiarity* has been interpreted much more narrowly to mean that the Commission should provide a higher level of justification before it proposes EU legislation. The subsidiarity principle is also addressed in the much-discussed Constitution for Europe. The principle forms part of the foundation of the Union's functioning and "is intended to ensure that decisions are taken as closely as possible

Figure 1: Typology of scales of spatial planning in EU-countries



Source: (Tewdwr-Jones et al., 2000) in: Janin Rivolin and Faludi (2005)

to the citizen and that constant checks are made as to whether action at Community level is justified in the light of the possibilities available at national, regional or local level. Specifically, it is the principle whereby the Union does not take action (except in the areas which fall within its exclusive competence) unless it is more effective than action taken at national, regional or local level. It is closely bound up with the principles of proportionality and necessity, which require that any action by the Union should not go beyond what is necessary to achieve the objectives of the Treaty” (EU, 2005).

The subsidiarity principle also applies to the so-called ‘Nimby’ projects (Not-in-my-backyard). These are projects with a supralocal level of service involvement, but which a local government authority would prefer not to have developed within its boundaries. Examples are prisons, waste-disposal plants or water purification plants. According to the subsidiarity principle, the decision concerning the location of this sort of facility should be taken at the supralocal scale level.

Previously, particular attention was paid in the national planning systems to competences and instruments for the national and local government authorities, and in some systems also for the regional government. A consistent application of the subsidiarity principle leads to the stretching of the number of government levels, the shifting of competences between these levels, and new demands on the functioning of government authorities.

4. Role of regional government in three countries

In the above we have already indicated that, through changes in the governmental and societal field of force, there is a need for and evidence of a new multi-level governance model. In this article we concentrate our attention on one of these government levels: the region. We analyse the recent changes in the spatial planning systems of three West-European countries: the Netherlands, Great Britain, and Belgium. In Great Britain, we restrict ourselves to England and in Belgium, to Flanders.

The choice of these countries was directed in part by the fact that radical changes have been put in place (England and Flanders) or have been proposed (the Netherlands). The scale of the regional level differs. The English region falls in the NUTS1ⁱ category and the Dutch and Flemish province in that of NUTS2 (see also Figure 2). In this article, the regional levels on which we focus have in common that they come under the legislative government level. So in Flanders the Flemish Region is the legislative power in the area of spatial planning and not the province.

Besides the radical changes, it is also interesting to consider these three countries, because there is evidence of a phase difference in the implementation of the changes in the planning system. In Flanders, the original changes date from the mid 1990s (they were finally put into force in 2000), in England they were introduced in 2004, and in the Netherlands the changes have still to be ratified by parliament. Consequently, as the analysis of the countries shows, the extent to which planning practice is concerned differs.

In all three countries the regional level has gained in importance. As the descriptions will make clear, the reasons as to why the regional government level has become more important and the manner in which this importance is worked out in regional competences and instruments differ per country. The central question in this article is the manner in which the regional level is strengthened through the changes in the planning system. What types of plans are there, or have been proposed, at the regional level? In what manner is the conformity of spatial decisions at the regional level with planning on other levels guaranteed into the planning system? And why have changes in the planning system taken place at the regional level? Do the changes in the planning system make the new role for the region feasible?

Figure 2: Regional level in England, Flanders and the Netherlands



In the descriptions of the planning systems, the following structure has been used for each of the three countries:

- In the first section, we introduce the formal government layers and the legal basis for the planning system. We also sketch briefly the most important planning instruments for which the various government levels in the planning system were competent and we classify the formal planning system.
- In the second section, we consider the principle (proposed or realized) changes in the planning system and the related policy discussions.
- In the third section, we weigh up the consequences for the role of the region. First we indicate what the regional level consists of in the country concerned. The planning instruments which the region has available to it are reviewed after the changes. We then discuss the relationship of the region with the other government levels (both local and central government) and the market parties.

The country reports form the basis for the further analysis reported in section 8. In the conclusions we consider the similarities and differences among the three countries in the changed role of the regional scale level.

5. The Netherlands

5.1 Current spatial planning instruments

The Netherlands has three formal levels of government: national, provincial, and local. There are 12 provinces in total (varying from less than 0.4 million to 3.4 million inhabitants) and 467 municipalities (1 January 2005). In the last few years, major work has been carried out on the redrawing of the boundaries of the municipalities (25 years ago there were 800 municipalities). In order to increase their governmental power, municipalities were joined together and central municipalities strengthened. Besides the three formal levels, in some areas a fourth government level can be distinguished. The Intermunicipal Statutory Regulations Act (*Wet Gemeenschappelijke Regelingen*) enables local authorities to – voluntarily – join forces for a specific aim. Since 1994, the cooperation of the seven largest urban areas with respect to city-regions is mandatory on the basis of specific legislation. This administrative level is characterized by the local authorities participating in the city-region as an extension of local government and they are therefore not democratically chosen. A number of legislative competences (some of which are in the field of spatial planning) have been assigned to this administrative level.

Dutch national government has legislative powers in the field of Spatial Planning. The formal Dutch planning system is based on the Spatial Planning Act (*Wet op de Ruimtelijke Ordening*), which dates from 1965. In the field of spatial planning, the Act defines a – partly mandatory – set of plans. In practice, other types of plan are also used at the provincial or local level; however, these plans cannot contain legally-binding land-use rules. In the current planning system each government level has specific planning instruments at its disposal, although changes in recent years have created some exceptions. Elements of each plan can be binding on lower authorities, both on the formal spatial plans and on other planning decisions by lower authorities.

The main central government planning instrument is the spatial planning key decision (*planologische kernbeslissing*). This document may contain strategic planning issues of national importance (national structure plan for a broad aspect of spatial policy). The central government can draw up such a plan for a particular project of national importance: an

infrastructure project, for example. In that case, local authorities can be forced to cooperate because of the binding elements.

At the provincial level, the regional plan (*streekplan*) is the main instrument. This plan contains strategic planning issues relevant for provincial policy. The plan can be made for the whole area of a province, but in practice often smaller areas are covered. The necessary approval of the local land-use plan by the province is of great importance in practice, especially for rural areas. Nevertheless, central government planning policy is brought into practice on the local level.

The local planning level is the most important. Here, the main planning instrument is the local land-use plan (*bestemmingsplan*). This is the only plan which is legally binding on citizens through the regulation of land use and prescriptions related to land use. A building permit can only be granted if the proposal conforms to the land use and building prescriptions in the local land-use plan. Besides the land-use plan, local authorities can also formulate a project plan for individual projects. Such a plan is less comprehensive, but it is also legally binding; it replaces the applicable land use regulation of the land use plan. The condition for the establishment of such a plan is that it must be provided with a good spatial development basis.

Both the local land-use plan and the project plan have to be approved by the province. If the central government does not agree with the proposed planning regulations, it has an intervention procedure at its disposal. In addition to the local land-use plan, the local authority has available the voluntary and indicative structure plan, but this plan is rarely used. Finally, the seven city-regions draw up a mandatory regional structure plan.

Although the system includes opportunities for a higher government level to influence a lower level land-use plan, these mechanisms are seldom used. The secret of successful planning lies in extensive intra-governmental negotiation and consultation. The density of the discourse is probably the most fundamental characteristic of spatial planning in the Netherlands. The Compendium of European Planning Systems describes Dutch planning as one of the most forthright examples of the 'comprehensive integrated approach'; it comprises a formal hierarchy of plans to coordinate public-sector activities in a range of fields from the national level down to the local level. Plans are more concerned with the coordination of spatial than of economic developments (EC, 1997).

5.2 Proposed changes in the Spatial Planning Act

The Spatial Planning Act has been amended several times since it first came into force in 1965. As a result, a patchwork of different instruments and different procedures was created. We introduce some of the amendments before we discuss the recent proposal for a complete revision of the Act.

The spatial planning key decision only received a legal basis in the Act in 1985 and the last major alteration involved the independent project procedure for local authorities (referred to as the Section 19 procedure). In addition, since the 1990s some decisions regarding planning elements of national and provincial strategic planning documents were given a binding character for other governments through jurisprudence. This binding character was formalized in the Act in 2000. All in all, the law that has been established provides for many eventualities, but it has also become extremely complicated and confusing in practice. Below we briefly expand on three of these changes, namely the new city-region level and its plan instrument, the procedure concerning projects of provincial and national importance, and the project procedure mentioned above.

When in 1994 the seven city-regions came into being, the regional structure plan was introduced. This plan was intended to facilitate the coordination of spatial policy on the level between local and provincial government. Although this regional structure plan could have become a strong planning instrument, its significance has in practice been rather small. One of the reasons for this is that regional cooperation in the Netherlands is based on consensus. Because the government on this regional level was not elected, but only appointed by the local authorities involved, the regions have hardly used the formal powers they received under the 1994 Act.

The realization of national infrastructure projects has sometimes been hindered because a local authority has refused to change the local land-use plan; consequently, several amendments have now been made to the Act. Based on a specific Act in 1994 (*Tracéwet*), local authorities have fewer opportunities to obstruct plans. Later on, this Act became even more sharply focused. As a result, the key planning decision can be binding on national infrastructure projects. In 2004 the use of this procedure was extended to all kind of projects of national interest.

The independent project procedure makes it possible for a local authority to allow a project to be realized even though the proposed land use is in conflict with the local land-use plan. Before the amendment of the Act, this possibility was only allowed if the local authority announced the preparation of a new land-use plan. However, if the announcement was not followed up by an actual adaptation of the land-use plan, the authority had no sanctions at its disposal. As a result, the necessity to make an integral local land-use plan and to carry it out was undermined. Many projects were realized in planning practice using this procedure. Attempts to limit the use of this opportunity, for example the possibility of making a less detailed (global) local land-use plan, have not been very successful. In 2000 the project procedure was formalized. A condition for using this, however, was that the project should be accompanied by a good spatial development foundation. Besides these changes, the procedures of the Act have also been amended to stimulate the speedier preparation and faster revision of spatial plans.

As stated above, the Spatial Planning Act became a patchwork. The Second Chamber concurred with this opinion and, as a result, in 1999 the government decided to revise the Act fundamentally. The Spatial Development Policy Report of the Netherlands Scientific Council for Government Policy (WRR, 1999) also declared the importance of arranging a new system for spatial planning in the Netherlands. The assumptions underlying a new system were recommended to be as follows:

- A dynamic approach to spatial planning with differentiation and selectivity as core concepts. The spatial development policy must derive its basis from a national strategic policy that pays more attention to the integration of policy at regional level;
- The direct coupling of the spatial planning process to spatial investments and vice versa.

These assumptions concurred with the undertaking given to Parliament that the Act would undergo a fundamental revision.

Below, a short overview is given of the most important proposed changes. Spatial planning decisions are to be taken at all governmental levels. The Act has to clarify which governmental level is responsible for which decision. An important criterion in the organization of spatial planning is that powers have to be exercised at the right level – preferably the lowest – where all the effects of a particular decision can be overseen. Furthermore, the local land-use plans have to be more up-to-date and local authorities must

take greater care of the development control issue. Finally, the new Act has to be simpler and more transparent. An Act of Parliament must be clear and unambiguous. One of the objectives of this revision is therefore to produce a reader-friendly document with clear-cut procedures and transparent legal protection. Alignment with the General Administration Act is an important factor in achieving this, thereby helping to streamline and simplify procedures and guarantee public involvement and legal protection. Lastly, attention is paid to various procedures used for environmental plans drawn up by the provincial executives.

The proposed planning system is less complex: the two main planning documents will be a strategic plan and a legally binding plan. The distinction between policy statements and statements that are legally binding will be made more clear. The strategic and indicative policy is set out in policy documents (structure visions: *structuurvisies*); the legally binding, prescriptive policy is set out in the land-use plans. In addition to these, general prescriptions of the provinces and the central government are introduced. In the structure vision, an integral outline must be given of the desired spatial developments for a particular area and direction must be given to the relevant spatial policy for the (everyday) surroundings. The Draft Bill makes it clear that, under the new Act, the central government, province, city-region, and the local authorities will all have the competence to set up structure visions. These come in the place of the national key planning decision, the regional plan, and the municipal structure plan from the current Spatial Planning Act. The new structure vision is a policy document without any legally binding elements, in which the administrative body that establishes it aligns itself with a vision of the desired spatial development in a particular area. In the draft bill, originally structure visions were not mandatory. However, in the last governmental amendment, based on the opinion of the Dutch parliament, structure visions were made mandatory.

In contrast with the former Spatial Planning Act, the competence to draw up a land-use plan will also be available to the central government and the province. This competence will provide these government levels (in addition to the competence of setting up general regulations) with an extra opportunity to establish elements of spatial planning that are of provincial or national importance. In addition, the procedure of this plan will be changed. The retrospective validation of the land-use plan at the provincial level has also been discontinued. This validation has been replaced by an official recognition moment for the province and the central government in the land-use plan procedure itself, and the competence of higher level government authorities to set preconditions or quality requirements that the land-use plans must satisfy, make specific alterations, and formulate a land-use plan directly. Measures are also taken to keep land-use plans up-to-date. A simple update-declaration is introduced for unchanged policy, as well as a less complicated revision procedure and penalties for not updating land-use plans every ten years. The digitization of land-use plan will also be stimulated.

The independent project procedure was originally abolished in the Draft Bill, because the procedure time of the land-use plan will be shortened and the procedure simplified. However, new insights – partly based on comments from lower level administrative bodies and the private sector – have led to the introduction of a project procedure for the local authority, province, and central government. This procedure involves an optional phased decision-making process; the land-use plan has still to be quickly adapted, but the project procedure can be the base for granting a building permission.

The Bill to revise (fundamentally) the current Spatial Planning Act was put before the Second Chamber of Parliament in May 2003. In March 2005 a third document of amendments was

published. It is expected that the Bill and the amendments will be debated in the Second Chamber in 2005 and become effective in 2007.

5.3 Changing role of the province

In the Netherlands, two levels of regional spatial policy can be distinguished. In general, the province takes up supralocal spatial planning. In addition, in seven city-regions cooperative regional relationships have been established. In the National Spatial Strategy (Tweede Kamer, 2004), the recent national spatial planning key decision, the role of the province in spatial planning is stressed. In future, spatial considerations at this level will increase in importance, not only with respect to the coordination of planning, but also in the coupling to spatial investments. The idea is that the province (and sometimes the region) will fulfil a coordinating and sometimes even a development role in projects at the supralocal scale level.

On the basis of the actual Spatial Planning Act, the provincial competences are as follows. The province does not have at its disposal the competence to determine land use regulations on its own. The province can, however, formulate a strategic plan: the regional plan. Furthermore the provincial approval of local land-use plans forms an important instrument. In practice these two competences are often applied in combination. The planning approval takes place in accordance with the strategic spatial policy as set out in the regional plan. In this manner the province can exert considerable influence on local spatial policy through verification; undesirable land use changes can be opposed, provided such a step is well supported by the planning policy. The province has fewer opportunities to enforce certain changes in land use. To be sure, there is an opportunity to give a local authority notice of a change in the local land-use plan, but the use of this competence is procedurally time-consuming.

In the proposed changes of the Spatial Planning Act, the provincial role will change. Henceforth a province will also be able to make binding land-use regulations itself, using a provincial land-use plan or the independent project procedure at the provincial level. This competence is, however, restricted to projects of provincial importance. Another change is that the provincial competence to approve local land-use plans lapses. In the assessment of a plan, the role of the province is limited to the opportunity to make use of the objection phase to signal its objection to a particular proposed spatial regulation. Another new competence acquired by the province is to establish generally applicable land use regulations which local authorities must translate into local land-use plans. The exclusion of certain land uses is more likely to follow (for example, building in areas of outstanding ecological value) than the stimulation of a certain sort of land-use. Certain preconditions on land-use can indeed be set (for example, a minimal amount of water storage capacity to be provided in an area to be developed). In the proposed planning system central government will be able to have the same influence on provincial plans as before. Central government will still be able to object to a provincial land-use plan and, in addition, it will receive the competence to decide on a national land-use plan if this concerns an issue of national importance.

One of the objectives of the revision of the spatial planning system was to strengthen the provincial role. This objective has been met to some extent in the proposed Spatial Planning Bill. But this strengthening also takes place through separate legislation concerning, for example, land policy (Land Development Act: *Grondexploitatiewet*). Since many changes are still at a preparatory stage, there is no planning practice yet. The experts are not in complete agreement as to whether the changes signify a strengthening of the provincial role on all

fronts. More competences with respect to land policy, local land-use plan opportunities, and project procedures contrast with the retrospective validation of local land-use plans.

The present role of the seven city-regions is in practice rather limited. When altering the local land-use plan, local authorities must keep to the strategic regional plan. However, the city-region is not capable of making a change to a positive land-use. In contrast with the province, the city-region does not have a strong development control competence: it only has an advisory role, not the retrospective validation competence of local land-use plans. It is not yet clear what place there is for the city-region in the new spatial planning system. Provinces can possibly transfer their competences if they so wish to the city-region. Then a binding local land-use plan could also be set up on that smaller regional scale level. The precise role of the city-regions will only become completely clear with the Enactment of the new Spatial Planning Act.

The manner in which the province involves citizens with respect to spatial policy has been partly left open in the proposed legislation. The legislators have chosen not to set down any procedural prescriptions with respect to the strategic plans (structure visions). In the mandatory prescriptions (the local land-use plan) this is a different matter. The government authority is required to involve citizens in the setting up of the plan. The proposed system is designed to make land-use regulations more transparent for the citizen. The required periodic realization of plans should help in this respect, as should making the digital plans accessible, which in due course will also be a requirement. At present several land use regulations may seem to apply to one piece of ground, and it is sometimes difficult to ascertain precisely which planning regime applies.

6. Flanders (Belgium)

6.1 The present planning system

Since 1980, Belgium has had a federal state structure. There are three Regions: Flanders, Wallonia, and the Brussels Capital City Region. The regions of Flanders and Wallonia are divided into provinces. The Flemish Region has 5 provinces. In total, Belgium has 10 provinces; the smallest province has 0.8 million inhabitants, the largest 1.6 million. The Brussels Capital City region, however, does not have any provinces. Each province is further subdivided into a number of local authorities: in total, Belgium has 589 local authorities; of these, Flanders has 308. The smallest municipality in Flanders has 87 inhabitants, the largest 455,000 (as of 1 January 2004). The local authorities stand under the supervision of the regions (not of the provinces). In addition to the independent local authorities, Belgium has many intermunicipal cooperative associations (*intercommunales*); in general these are also active in the area of spatial planning, for example by drawing up plans on commission from local authorities and sometimes also by taking on the implementation of spatial policy (for example, business park development). In the federal structure, the Regions have the competence to put legislation with respect to spatial planning in place. We therefore concentrate our attention in this article on one of these Regions, the Flemish Region. The relevant legislation is to be found in the Decree on Spatial Planning; this decree came into force in 2000 (De Wolff, 2000). The integral revision of the planning system in Flanders therefore took place several years ago.

Within the Flemish Region there are three government levels which have competences in spatial planning at their direct disposal: the Region, the province, and the local authority.

These three government levels can all draw up spatial structure plans (*ruimtelijke structuurplannen*). These are strategic plans; they consist of an indicative, a directive, and a legally binding section. The plans can also contain parts which are binding for other government authorities. Spatial structure plans drawn up at a lower government level must be approved by the next successive higher government level. The plans must be oriented to conform to the stipulations of the spatial structure plans of the higher government level. In principle, they are fixed for a period of 5 years.

In addition to the spatial structure plans, all three government levels have the competence to make spatial implementation plans (*ruimtelijke uitvoeringsplannen*). These are binding plans to carry into effect parts of a structure plan. The plan contains legally binding land use regulations; citizens must abide by these plans. An approval procedure undertaken by a higher government authority also applies to these plans. Should a land division permit or an urban development permit (successor to the building permit) be applied for, this must be checked out against the spatial implementation plan.

In addition, all three government levels have a third competence at their disposal. It concerns the opportunity to set general spatial prescriptions in the form of urban development regulations; these are binding prescriptions. An approval procedure by a higher government authority also applies to these regulations.

The Belgian system used to be characterized by the land-use management approach in which planning is more closely associated with the narrower task of controlling the change of land use at the strategic and local levels. The system is now moving to a more comprehensive approach, as in the Netherlands (EC, 1997).

6.2 Changes in the planning system

The predecessor of the current legislative regulation in spatial planning was introduced in 1962 (*Stedebouwwet*). With the constitutional reform through which Belgium became a Federal State, the spatial planning competences were transferred to the regions. At first, the old prescriptions remained in force. An important change in 1993 was the rescinding of the so-called filling-up right of empty plots between already built-up plots (*opvullingsregel*), a landowner's general building right which was responsible for much ribbon development in Belgium (Desmet, 1997). Albrechts (2001) speaks of a change in the political system dating from the beginning of the 1990s, whereby spatial quality and the promotion of the interests of all citizens became more important in the making of plans than individual landownership, personal interests, or adherence to certain social networks and pressure groups.

Since the mid 1990s there has been an integral revision of the system. Thus in 1996 a legal basis was given to structure plans. Since then all three government levels have been required to make structure plans. With this change the tradition of binding land-use plans came to an end and in fact a revival of spatial planning took place in Flanders (De Vries, 2002). Also in 1996 the planning regulation was introduced: a binding regulation with general rules with respect to spatial planning. The province also acquired the competence; provinces thereby acquired binding competences in spatial planning for the first time.

In 2000, the integral revision was completed with the coming into force of the Spatial Planning Decree. One of the objectives of this decree is a (further) strengthening of the role of the provinces and local authorities in the area of spatial planning: problems must be dealt with at the most appropriate level. In the explanatory memorandum an indication is also given as to

which matters should be taken up in an implementation plan at the provincial level. That is relevant here, because in Flanders up to 2000 the Region itself made relatively detailed binding plans (referred to as the regional plans: *gewestplannen*).

The approval of local plans also becomes a provincial task. This step constitutes a break with the centralistic policy which was previously followed in Belgium with respect to the local government authorities (Vekeman, 1997). The local authorities and the Flemish Region already had at their disposal the opportunity to set up a binding spatial plan; in 2000 the provinces also acquired this opportunity, in the form of the opportunity to make a spatial implementation plan.

The Spatial Planning Decree also includes a number of other instruments concerning spatial planning. Local authorities must draw up a planning register. This analogue or digital register must make it possible to check out per parcel what land use regulations apply. In the Flemish system, with possibly binding plans at three levels and in addition possibly binding prescriptions on the basis of the urban planning regulations, this is of great importance for the citizens' familiarity with the land use prescriptions. The regulation concerning planning profits is remarkable. Should the situation arise that a landowner stands to make a profit through a change in the spatial implementation plan (through acquiring a more profitable land use), then he is required to pay for it. The levy is a fixed deduction. The yields from the levy are paid into a regional land fund and devoted in particular to helping local authorities that have few opportunities for development (local authorities with many wooded and green areas and agricultural areas within the local authority boundaries).

Although the integral revision of the planning system took place several years ago, the new system is far from being in operation. The Flemish Structure Plan did indeed appear in 1997, but the structure plan has not yet penetrated the municipal level. That is also inherent in the system, whereby the lower structure plan must conform to the higher-level plan. Since the new system involves a radical break with the past, transitional regulations were also included in the decree. One of these, for example, concerned the competence of the local authority to deal independently with the granting of urban development licences. The condition for the application of this competence was that local authorities should satisfy certain requirements within 5 years (including the completion of a local spatial structure plan and a planning register); after 5 years the competence would be transferred to the province. Since there was as yet no local authority capable of satisfying the condition, the transitional period was extended by two years (which was welcomed by the provinces who did not consider themselves capable of taking over the task). Furthermore, this illustrates that there is still a wide gulf between the system on paper and everyday reality.

6.3 Changing role of the province

In Flanders the province is perceived as the regional level. It is indeed the case, however, that the Flemish Region has traditionally been heavily involved with the material aspect of spatial planning, something that now lapses with the new decree. Even after the new decree of 2000, the involvement of the Region remains extensive in certain matters. An example is the demarcation of urban areas. The spatial structure plan indicates that policy must be implemented for 57 urban areas; for 13 urban areas the delineation of the policy falls under the competence of the Flemish Region. That means that a demarcation line is determined and an action programme drawn up of desired spatial developments in the central local authority concerned. On the basis of this, a spatial implementation plan is subsequently drawn up by the Region, in which not only the outer limits but also, for example, the location of new green

areas within the city, residential areas, and business parks are indicated. The Flemish Region will also take up the demarcation of the agricultural, green, and wooded areas in the spatial implementation plans. A third example is the area around the Albert canal. Flanders has taken up this project because of the great importance of the Albert Canal for the further spatial-economic development of the Region; the Region will draw up spatial implementation plans in order to allow the area to develop further into a network. The Flemish Region can be seen here to have made large scale use here of the competence to draw up spatial implementation plans itself.

The provinces do not perceive themselves primarily as an organ to promote the territorial interests of the province, but one which is concerned with supralocal tasks and the weighing up of interests (Vereniging van de Vlaamse Provincies, 2004). The provinces are searching for features of integration and an area-oriented approach in the policy. In achieving that, they must keep to the general policy lines, as laid down by the Flemish Government. The Flemish Spatial Structure Plan is in that respect fairly explicit. Tasks involving all sorts of matters allocated to the province are indicated. The provinces must, for example, mark out in the provincial spatial implementation plans “the regional business parks in the structure supporting small town areas at provincial level and in the further economic junctions.” Since the municipality of Ypres has been selected in the Flemish Spatial Structure Plan as a structure supporting small town area, the province must therefore draw up a spatial implementation plan if a business park is to be developed. That has been proposed in the West-Flemish provincial spatial structure plan drawn up by the province. Provinces also develop their own policy. By now, all the provinces have their own spatial structure plans. Their own policies refer, for example, to the location of sports involving noise nuisance (including motocross), sewage water purification plants, golf courses, and water tourism.

The subsidiarity principle has been important in the design of the new Spatial Planning Decree. With respect to the instruments, subsidiarity means that provincial level planning competences must also be available at the strategic level and also for implementation in the form of binding plans. The provincial level also has available another important competence: the approval competence of the municipal structure- and spatial implementation plans together with the opportunity to lay down urban development regulations. Currently, all the provinces have a spatial structure plan and the first spatial implementation plans have been drawn up. Two provinces have formulated an urban development statute; both concern the collection and recycling of rainwater coming from roof surfaces.

In Flanders, the stronger role for the province is still settling into place. Traditionally, practice in spatial planning in Flanders has been centralistic. On the basis of the old legislative regime, the Flemish government draw up the regional plans for 25 sub sectors; these were also binding for citizens with respect to the land uses prescribed. The consequence was that local authorities no longer made integral spatial plans, but only what were referred to as special construction plans for the areas the local authorities were going to develop. Present practice now needs to be different. The Flemish Spatial Structure Plan still indicates with considerable precision what is expected of the province for a large number of matters. Provinces complain currently about the over-liberal transfer of responsibilities by the Flemish Region. “The provinces have the feeling that, in Flanders, subsidiarity is interpreted in practice as the shifting of competences to or the preparation of a survey by the provincial level. It should not be the case that a certain interpretation of the concept of subsidiarity becomes an instrument with which to transfer difficult dossiers to the provinces” (Vereniging van de Vlaamse Provincies, 2004, p. 7). In any case, the province is not free: provincial plans and also

provincial regulations must be approved by the Region. Although the Flemish planning system has thus become less centralistic on paper, in practice the relationship between region and province is still fairly hierarchic.

Since the decree of 2000, the provinces have acquired a supervisory role over local authorities with respect to spatial policy. Local plans must be approved, as must local urban development regulations. Officially, provinces also acquire an implementation role with respect to the granting of urban development and land division permits should local authorities not take care of matters according to the decree in good time, but the provinces did not feel competent to carry out this role. In contrast with the Region, the province has no hierarchic tradition, certainly not in the area of spatial planning. Provinces are still searching for their role; they have neither the nature nor the inclination to take on a great deal. The provinces see themselves now primarily as a party that can weigh up and balance spatial interests at the supralocal level.

The Flemish planning system is rather complex. Three levels of government, with three levels of planning competences and three types of instruments, two of which are binding on citizens, lead to regulations for land use on paper that are not directly transparent. The “planning register” that local authorities since 1999 must draw up at parcel level ought to make the state of affairs clear; only in 25 of the 308 municipalities, however, has a register been drawn up (state of affairs as of 1 December 2004, Vlaamse Regering, 2005). Furthermore, through the long transitional period in addition to the new plans drawn up on the basis of the new decree a large number of ‘old’ plans are still in operation. It is important to note that in the last few years spatial planning policy has become considerably stricter in Flanders. From a context in which construction permits were granted of unclear regulations and many exceptions, some of which were in conflict with the official prescriptions, the planning practice is gradually becoming much more standardized. This transformation process is, however, laborious: compromises have been made many times in both legislation and policy. The implementation of the new regulations is falling behind the planning.

7. England

7.1 The former planning system

The United Kingdom is a unitary state and includes four home countries (England, Wales, Scotland, and Northern Ireland) and three legal systemsⁱⁱ. The country is a parliamentary democracy but without a written constitution. Consequently, the rights of the public sector and individual citizens are derived from separate laws adopted by parliament. Each of the four parts of the country contains two formal administrative levels: national and local. There are two structures of local government, depending on the type of area. In the metropolitan areas of England there is a unitary structure; the rest of England has a two-tier structure with 34 county councils and 238 district councils. There are 33 unitary London boroughs, 36 unitary metropolitan district councils, and 46 unitary authorities (EC, 2000).

Spatial legislation and the types of plan are legally derived from the Town and Country Planning Act of 1990. Several other laws also have implications for spatial planning. Among these are the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990. All were amended in important respects by the Planning and Compensation Act 1991. This Act was replaced after the Planning Reform (see 7.2). In addition, there are many statutory instruments which make up secondary or subordinate

legislation (EC, 2000). The Office of the Deputy Prime Minister (ODPM) is responsible for national spatial policy. There is no national spatial plan; the policy is specified in policy circulars and in national and regional guidelines (Planning Policy Guidance Notes, PPGs) and various direct decisions. These either determine the actions of lower government authorities or they are treated as suggestions for the implementation of local responsibilities. The ODPM has a strong influence on local spatial policy through its power of oversight of local plans.

Formal decisions on local policy and permits are made by the council of the local authority (all the elected members) but are usually delegated to a committee of the council. Local plans are not legally binding. Each action of (re) development in the physical environment requires a planning permit and building regulation approval; both fall under the jurisdiction of the local planning authorities. The planning permission covers an array of aspects that are relevant to planning (function, access, integration, and so forth), while the building regulation approval considers structural and safety features. Only the issuing of a planning permit and the building regulation approval establish legally binding rights and obligations. This British system is generally known as a development control system, one in which the legal basis is not formed by a plan, although it must be taken into account in taking a planning decision (material consideration). Before the Planning Reform England came into force, the development plan was drawn up at the local level. This plan was prepared by the relevant local authorities and comprised primarily two types of document: structure plans covering counties and local plans covering districts. In the metropolitan areas of England, these were replaced by a single unitary development plan. Development plans had to be in conformity with national and regional guidance (EC, 2000; Spaans, 2002).

The former British planning system was typified by the land-use management approach in which planning is more closely associated with the narrower task of controlling the change of land use at the strategic and local levels.

7.2 The English planning system after the Planning Reform

The Planning Green Paper [Planning: Delivering a Fundamental Change] marked the start of the change of the English planning system (ODPM, 2001). Mobbs (2000), however, points out that many of the proposals in the Planning Reform paper arose from the Deregulation Task Force: a body established under the Conservatives. The result, published in 1999, was the Modernising Government document. The changes proposed to make the planning system more 'efficient' were specifically targeted, with two major objectives:

- To speed up the decision-making process, which for the average person objecting to proposals is already weighted in favour of the developer; and
- To develop a regional agenda, whereby many decisions that would previously have been taken in public by local councillors are taken remotely by appointees to regional planning and development boards.

Other important objectives concerned the closer engagement of the community in the process of plan preparation and the improvement of the integration with other local strategies and plans.

The Planning and Compulsory Purchase Act 2004, which comprises the legislation and the prescriptions for the changes, came into force at the end of September 2004. The regulations implementing the parts of the Act reforming development plans came into force shortly afterwards. An example of these is the Town and Country Planning (Regional Planning) (England) Regulations 2004, which provides a guideline for the steps to be followed in a Regional Spatial Strategy. In principle, the system involves a simplification of the complex

planning hierarchy, facilitates faster decision-making, promotes a closer involvement of the citizen in the planning process, and enhances integration with other local strategies and plans.

In the Planning Green Paper, the former hierarchy of regional, county, and local guidance and plans is characterized as complex and confusing: too often, plans were produced to different time-scales and contained inconsistent policies. It was thought that the multi-level structure of plans had become a major barrier to responsive and effective planning. Strategic issues were addressed either by the county structure plan or the unitary development plan. Since many of them cut across county boundaries, issues are increasingly dealt with at either regional level or across sub regions. Since the Planning and Compulsory Purchase Act 2004, the regional level now makes use of the statutorily enforced Regional Spatial Strategy, which replaces the regional guidance. One of the reasons for focusing on regional planning is that the Government plans to improve democracy through the decentralization of decision-making. For this reason there is a need to reform the arrangements for the preparation of Regional Planning Guidance (RPG). Criticism of the former RPG was that it was too 'top-down', lacked a regional focus, spent too much time reiterating national policies, was too narrowly land-use orientated, took too long to produce, and did not command the confidence or commitment of regional stakeholders. The envisaged end result is regional guidance providing an effective basis for deciding regional or sub-regional issues that are difficult to resolve if left to individual authorities. With greater regional ownership must come greater regional responsibility, both in facing up to the difficult issues and implementing the strategy for dealing with them.

At the local level, the development plan system is being replaced by a 'folder' approach to policy making. This portfolio of documents is referred to as the local development framework (LDF). It will contain the authority's policies and require the Secretary of State's approval. In order to pay more attention to citizen participation in the planning process, the Local Government White Paper presumes more integration of policy at local level. The new local development documents and local traffic and transport plans must conform to the Regional Spatial Strategy. In parallel with the Green Paper, proposals for change have been put forward for more efficiency in development control, for land expropriation and compensation regulations, planning obligations, and the organization of governance: this last with the aim of strengthening the regional level. The regional government level will be strengthened so as to stimulate strategic policy preparation. To this end, the accent at the regional level must shift from land-use planning to spatial strategy. We elaborate on the changing role of the English region in the next section.

7.3 The changing role of the English region

The English region differs from that in the other two countries discussed here. It does not have a democratically chosen government and the average size is far greater (NUTS 1 vs. NUTS 2). The population of a region varies between 2.5 and 8 million inhabitants (2001 Census). The English regions have long been neglected. Government Offices for the Regions (GORs) – created in 1994 – filled the gap. They now bring together the activities and interests of ten different central Government Departments in the nine English regions (London included). Previously, these Departments each had their own regional representation and even used different regional boundaries. Tomaney and Mitchell (1999) conclude that "the GORs fail to meet their currently limited declared objectives because of the many lines of accountability and funding, which makes it difficult to co-ordinate activity effectively."

In the 1990s, the process of the devolution of powers from central government to Scotland, Wales, Northern Ireland, and London became an important issue. At the end of the 1990s, this resulted in legislation with devolved competences and separate parliaments in Scotland, Wales, and Northern-Ireland. Since the devolution process to the UK-home countries, devolution to the English regions became an important theme in England. More attention arose for decision-making at the regional level. This manifested itself in a number of ways, among them the establishment of a Regional Development Agency (RDA) for each of the English regions. The RDA develops a regional economic strategy and ensures its implementation. These RDAs were created for policy co-ordination and new approaches to economic development. The Regions White Paper stressed that they should be business-led. The RDAs were also to take on some of the functions of GORs and regional quangos. Another way of increasing attention for decision-making at the regional level was the government encouragement of the establishment of non-statutory chambers in each English region as precursors of democratically-elected regional governments. We elaborate on one of these regional chambers below.

Parallel to the Planning Reform, the White Paper entitled *Your Region, Your Choice* (ODPM, 2002) was launched. The Office of the Deputy Prime Minister is currently responsible for regional policy within England, and aims to promote sustainable development in the English regions. The objectives include:

- 'Work with the full range of Government Departments and policies to raise the levels of social inclusion, neighbourhood renewal, and regional prosperity.
- 'Provide for effective devolved decision-making within a framework of national targets and policies.'

In the White Paper, the regions were offered the opportunity to opt for a democratically-elected regional government. These bodies would be responsible among other things for spatial planning and economic development. It was left to the regions themselves to decide whether to hold a referendum for citizens to vote for the institution of a new regional government. Should the result of the referendum be positive, the existing counties where there are still districts and counties would be reorganized as single-tier local authorities. The previously discussed Town and Country Planning (Regional Planning) (England) Regulations 2004 introduced instruments that would be available to the potential new regional government. Should a region be opposed to having a democratically elected regional government, the regional planning instruments would then be dealt with by the regional chamber; these chambers include representatives from the business, environmental, and voluntary sectors and have become known as 'social and economic partners' or 'community stakeholders'.

The first referendum was held in the region where the call for more influence at the regional level had been the loudest: the North East. On 4 November 2004, 78 percent of the electorate voted against such a governmental reorganization. As a reaction to this, the referenda in the North West and Yorkshire & the Humber regions were cancelled. In spite of this disappointment, the central government continues to pursue a policy of decentralizing power and improving performance through reform in local government and the strengthening of all the English regions.

In England, land use and economic planning were considered as important, but separate elements of spatial planning until the 1970s. Under urban regeneration programs, the economic objectives were leading. Since then, attempts have been made to provide coherence in the development and implementation of a range of regional land-use, economic, transport,

environmental, and other policies. One of the objectives of the Planning Reform was to move from a land-use planning system to a more spatial planning system with more integration between policy fields. This approach is elaborated on both the local and the regional level. With respect to the economic perspective, one of the reasons put forward for the greater role for the region was the large economic differences both between and within regions. Through giving the regions more competences, the idea was that better advantage could be taken of specific regional characteristics. The European structure funds which are directed to this regional level probably also play a part. In the government document *Modernising Planning* of 1998 the European context for planning in England is at least identified as the missing dimension in the planning system. This gap relates to both the supranational level of the ESDP and the regional level.

The key features of the new landscape for regional planning as presented in the *Planning and Compulsory Purchase Act 2004* include new regional planning bodies (RPBs) for each region and the statutory *Regional Spatial Strategy (RSS)*. The RPBs are established to draw up these planning documents. At least 60 percent of the membership will have to be elected councillors from either county councils or local planning authorities. The RPBs will be responsible for preparing and monitoring the *Regional Spatial Strategy*. The new Act states that “the RSS must set out the Secretary of State’s policies (however expressed) in relation to the development and use of land within the region.” These policies must be concerned with the use and development of land, but they need not be directly related to the granting or refusal of planning permission. The RSS can include different policies for different areas within the region (*Explanatory Notes to the Planning and Compulsory Purchase Act 2004*). The RSS should provide a ‘broad development strategy for the region’ for up to 20 years. The RSS will identify the scale and distribution of provision for new housing, set priorities for the environment, and consider transport infrastructure, economic development, waste treatment and disposal, and the like. At the same time attention is paid to regional and sub regional plans that cross regional and local authority boundaries. Every *Regional Spatial Strategy* reflects the regional diversity and the specific regional requirements within the national planning framework. The Secretary of State finally publishes the definitive version of the *Regional Spatial Strategy* and has the authority relating to assignment and withdrawal.

We now turn our attention to the relationship of the envisaged region and the other government levels (both central and local) and the market sector. With respect to the relationship with the central government, Great Britain was one of the most centralized countries — certainly because the central government determines which competences to delegate to a lower level government authority. The relationship between the current regional level and the central government can be considered equivocal. While the current *Regional Assemblies* consist at present of local representatives, the *Regional Spatial Strategy* must be approved by the Secretary of State and also express his policy in relation to the region concerned.

With respect to the relationship with the local government authorities, the relationship with the regional assembly is close by definition. Since England at present has no democratically elected regional chamber, the regional chambers are constituted by an official representation of the local authorities, representatives from the business world, and societal organizations. In 2005 the government is consulting on the role of regional bodies as statutory consultees. For the time being, the *Regional chambers* are not legally required. The relationship between the central government and the local government authorities in England does not always run

smoothly. Against this background, in his critical analysis Mobbs (2000) presents two significant factors for the regional focus:

- Taking the decision at the regional level, often before local people know what is going on, avoids public criticism.
- Taking the decision at the regional level cuts out locally elected councillors, and so removes local political pressures.

One of the objectives of the Planning Reform concerned the transparency of the system. If we look at the recent changes at the regional level, the delay and maybe even renunciation of a democratically-chosen regional chamber will cause a marginal role for the counties. Regional assemblies will assume regional planning body responsibilities, but the existing two-tier system with counties and local districts will continue to exist. Counties will only retain matters relating to minerals and waste development; local districts will have the responsibility for the Local Development Framework. We might argue that a statutory RSS increases transparency for the private sector. It is laid down legally that the draft RSS is subject to a public consultation process. The longer-term vision of the RSS creates opportunities for strategies in the longer term by the private sector. An example of a regional planning body is the South West Regional Assembly in which all principle councils, the Social Economic and Environmental Partners (SEEP), and each National Park Authority participate. The purpose is to promote the economic, social, and environmental well-being of the South-West ("the Region") in the interest of all who live and work in the Region and to build consensus and identity across the Region. One of the explicitly mentioned objectives is to exercise the functions of the Regional Planning Body for the Region (Constitution South West Regional Assembly). Through the chosen construction of partnership between local government authorities and SEEPs there is, however, no requirement for accountability to the citizens. For the market sector, the Regional Spatial Strategy will form the context for spatial development in the region. Via the SEEPs, the market sector may possibly introduce points for discussion in the context of the RSS. But Mobbs (2000) argues that there has been no serious public debate about the effects of the regionalization on development policy, especially with respect to the integration of business interests into regional development strategies.

We conclude with the integral capacity of the changes in the English planning system at the regional level. One of the objectives of the Planning Reform was to convert the traditional land-use planning system into a spatial planning system that would feature the harmonization and coordination of policy. This will be worked out at both the local and the regional levels in the Local Development Framework and the Regional Spatial Strategy respectively. The first steps have been taken towards a more integrated approach to planning. In this respect, the emphasis which in England is placed on economic development plays an important part.

8 Similarities and differences between the three countries

In the selection of the three countries for this article, one consideration was that the planning system in the countries had recently been radically revised or would shortly become so. In what ways have the changes in the planning system now strengthened the regional level? Figure 3 gives an overview of the planning competences at the regional level.

Figure 3 Overview of the planning competencies at the regional level

Flanders: planning competencies for the regional level: <i>Provinces</i>		
<i>strategic plan</i>	<i>binding land use regulations</i>	<i>other competences</i>
-spatial structure plan (ruimtelijk structuurplan)	<ul style="list-style-type: none"> - spatial implementation plan (<i>ruimtelijk uitvoeringsplan</i>) - general applicable land use regulations (stedenbouwkundige verordening) 	<ul style="list-style-type: none"> - approval of local spatial structure plans - approval of local spatial implementation plans
-has to be approved by the Flemish Region	<ul style="list-style-type: none"> - has to be approved by the Flemish Region - a building permit and a subdivision permit can only be given if these regulations are met 	

The Netherlands: proposed planning competencies for the regional level: <i>Provinces</i>		
<i>strategic plan</i>	<i>binding land use regulations</i>	<i>other competences</i>
- structure Vision (<i>structuurvisie</i>)	<ul style="list-style-type: none"> - land-use plan (<i>bestemmingsplan</i>) - project plan (projectprocedure) - general applicable land use regulations 	none
	<ul style="list-style-type: none"> - a building permit can only be given if these regulations are met 	

England: (proposed) planning competencies for the regional level: Regional Planning Bodies		
<i>strategic plan</i>	<i>binding land use regulations</i>	<i>other competences</i>
regional spatial strategy	none	none
<ul style="list-style-type: none"> -has to be decided on by central government -one of the material considerations when a planning permission is decided upon 		

Motives underlying the changes

In all three countries both the subsidiarity principle and the concept of multi-level governance have proved to have played a part in the reconsideration of which government level should have which competences at its disposal. In all three countries, the planning competences at the regional level were relatively weak or totally absent with respect to central and local government authorities. In both Flanders and the Netherlands, the subsidiarity principle was expressly mentioned as one of the motives for strengthening the regional level. What is striking is the difference in accent: the changes in Flanders and in England have strengthened the role of the regional level to achieve some decentralization, while in the Netherlands the strengthening was primarily motivated by the need to strengthen the supralocal scale level (because planning tasks were often too much for the local level). In the Netherlands, the province already had important competences in spatial planning; in the event, no extra level has been added. In Flanders that is indeed the case; the province has moved from nowhere to an important place in the area of spatial planning. That is also the case for the English region.

Competences

The competences allocated to the regional government levels differ in the three countries. The allocation is closely related to the character of the planning system. In both Flanders and the Netherlands, the regional level has or will have the competence to draw up legally-binding

land-use regulations. Although the regional level in the Netherlands does not at present have this competence, the province does have considerable indirect influence on the legal regulation of land use, namely by means of the approval competence of the local land-use plan. However, in the proposed changes this approval competence will disappear. If this will really happen is still the question, since it is a rather controversial part of the proposed legislation. In Flanders, the province has also had this approval opportunity of the municipal binding plans available to it since 2000. In the English system there are no binding plans; that system is in any case directed to development control. The revision of the system has not changed this characteristic.

With respect to the strategic planning, little has changed in the Netherlands. The province had and retains the competence to make strategic plans. In Flanders, the provinces have had the competence to make strategic plans since 1996. In 2000, the competence to approve local strategic plans was added. The changes in England now concern strategic plans. At regional level, a special Regional Planning Body that will draw up the strategic plans has been appointed.

The situation from which the three systems were parting is naturally strongly decisive for the path followed in the changes. For example, the fact that the English region is not (yet) democratically elected determines the type of competences that can be assigned to such a level. The development of a strategic spatial vision and integration with other policy fields is the more obvious path to follow than the assignment of competences that are more directed to spatial implementation, such as the drawing up of local land-use plans.

Conformity to higher-level plans

But to what extent are the regional competences restricted to paper plans? Will the regional spatial policy also be implemented? This conformity particularly concerns the strategic plans. In Flanders the conformity is the most strictly regulated in the system. Flanders has a clear planning hierarchy, which means that legally binding plans are drawn up for the implementation of the strategic plans. Practice will tell whether frequent use will also be made at provincial level of the opportunity to draw up binding plans. In the strategic plans, lower level government authorities can be requested to take over certain planning tasks. Via the system of approval of plans by the next government level, this is well cared for.

In the Dutch proposed system there will also be an opportunity for provinces to draw up binding plans. With that provision, the system offers good opportunities for conformity. In contrast with Flanders, there will be no direct conformity in the strategic plans. Government authorities are not required to make strategic plans, and they do not have to keep to the content of the strategic plans of other government levels. The plans are form- and also procedure free. The possible abolition of the provincial retrospective validation competence of local legally-binding land-use plans is less obvious from the conformity philosophy.

In England, the policy freedom in the granting of planning permission is of importance for the conformity to binding regulations. Ultimately the local authority is concerned here and, as one of the material considerations, the local development framework plays a part in the decision. But the Regional Spatial Strategy must also be taken into account: "Under section 38(3) of this Act, the RSS is part of the statutory development plan. Under the plan-led system, this means that the determination of planning applications will be made in accordance with the RSS and the relevant DPD (Development Plan Document) or DPDs, unless other material considerations indicate otherwise" (ODPM, 2004). Since the Regional Assembly can be characterized as an extension of local government in which local authorities participate, it will

also be via this informal path that harmonization can take place between the regional and the local level in the setting up of the local development framework.

Integration

In addition to the conformity of spatial policy between the government levels, the integration of spatial policy with sector policy is also of importance. In both the Netherlands and Flanders the regional government is also hard at work with the integration of area-directed policy, in particular for the rural areas. In any case, this integration takes place to some extent via the formal spatial planning context. In the English system it is just this integration with other policy (transport, economy) that is an essential component of the Regional Spatial Strategy.

Flexibility

In order to give subsidiarity form and substance it is of importance that the government can also react flexibly to developments at the specific scale level. The impression is given that the Flemish system is particularly sluggish in this respect. The strict planning hierarchy, through which strategic plans are required at all government levels for the whole region, has led for example to hardly any strategic plans being drawn up at the local level. Local authorities wait for the provincial strategic plan, because they have to conform to it. It is doubtful whether the government levels in Flanders are independent to a sufficient extent. The solution proposed for the Netherlands, where strategic plans are not mandatory and conformity only takes place via the binding plans, gives the regional level more scope for its own policy. In England this flexibility in the system is expressly present through the development-led character of the planning system.

Role in the implementation

In England the development of the role of the region depends on the fact that eventually a democratically elected chamber is to be expected at this level. For integration with related policy such as economic development, welfare, healthcare, and education and increased support of the social and market parties, direct involvement in the Regional Planning Bodies is of great value. But no role is to be expected of an active party in supralocal spatial planning projects as is the case in the Netherlands or, to a lesser extent, in Flanders.

In conclusion

How has the role of the region changed in the three countries? While the focus in the new role for the English region is on planning instruments and institutional framework for the strategic role, the Flemish province has become better equipped for both the strategy and implementation role. Compared with the other two countries the Dutch province already had competences at its disposal for the strategic role, so that the changes concern a reinforcement of the implementation role.

In this article we have concentrated in particular on a system comparison. The most relevant question is how successfully planning practice proceeds under the new system. It is too early to be able to assess this in all three countries. Only in Flanders has the new role of the region become sufficiently extended to permit an evaluation of planning practice. Since in the Netherlands only the first parts of policy and legislation have been settled, the precise role of the province (and that of the city-region) cannot be completely overseen. Although in England the structure of legislation is in place, the institutional framework is still in a state of flux. The regions are heavily involved in getting started with the development and establishment of Regional Spatial Strategies and the conformity in the first Local Development Frameworks is only a question of time. It is still too early to determine whether the newly-constructed

planning systems satisfy the objectives set. It is an attractive ambition to hold the formal planning system and the planning practice in the three countries up to the light in about five years' time.

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ⁱ NUTS: Nomenclature of Territorial Units for Statistics. Eurostat has defined this administrative classification for all the European member states. NUTS has as objective the construction of a uniform classification in order to facilitate the comparison of data from the European member states.

ⁱⁱ England and Wales have the same legal system.