

Urbanisation and Local Government – An Introduction

THORSTEN INGO SCHMIDT

Abstract This introductory essay is structured as follows: First of all, several forms of urbanisation (I.) are introduced and the processes of urbanisation and dis-urbanisation (II.) are defined. Then four fields of law which are deeply affected by urbanisation are put into the focus. These are, local government law (III.), but also public building law (IV.), civil service law (V.) and public finance law (VI.). Afterwards the effects of the corona pandemic on these fields of law are contemplated, taking account of the process of urbanisation (VII.). Finally, the main results are summarised (VIII.).

Keywords: • urbanisation • de-urbanisation • municipal law • public finance law • building law COVID-19 pandemic

CORRESPONDENCE ADDRESS: Thorsten Ingo Schmidt, PhD., dr. habil., Professor, University of Potsdam, August Bebel Str. 82., 14882 Potsdam, Germany, email: thorsten.ingo.schmidt@googlemail.com.

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1 Introduction

This introductory essay is structured as follows: First of all, several forms of urbanisation are introduced, and the processes of urbanisation and dis-urbanisation are defined. Then four fields of law which are deeply affected by urbanisation are put into the focus. These are, local government law, but also public building law, civil service law and public finance law. Afterwards the effects of the corona pandemic on these fields of law are contemplated, taking account of the process of urbanisation. Finally, the main results are summarised.

2 Forms of urbanisation

There are at least three forms of urbanisation (Chaolin, 2020: 141-142), namely physical, functional and social urbanisation. Physical urbanisation describes the growth of cities in terms of inhabitants, buildings and surface area covered. Functional urbanisation on the other hand is characterized by mutual interlinks between a city and its surrounding countryside: Urban forms of production and services spread to the villages around the city. Finally, social urbanisation means that the attitudes and opinions of people living in the countryside become more and more similar to the ideals and moral concepts of the urban population. This essay focuses on the effects of physical urbanisation but will also take into account functional urbanisation and sometimes touch on social urbanisation.

3 Process of urbanisation

Urbanisation is a process, which leads to a different status. Although there seems to be a general tendency towards urbanisation, this process does not work only in one direction but can be reversed or started over again (DeLange et al., 2014: 41 and Zhang, 2016: 242-245). Therefore, apart from urbanisation there are also processes of dis-urbanisation (Mithcell & Bryant, 2020: 433-434 and Heineberg et al., 2014: 49) and re-urbanisation. Within a state, different regions may be in different phases of these processes. While in one part of the country, cities grow in inhabitants and further urbanisation takes place, in another part the population of cities decreases, and dis-urbanisation takes place. In the federal state of Brandenburg, for instance the regions around Berlin are growing while the number of inhabitants in towns bordering Poland decreases. The legal system has to cope with these simultaneous processes of urbanisation and dis-urbanisation and has to offer a wide range of solutions for a diverse set of challenges.

4 Local government law

First of all, the local government law should respond to these challenges. There are five dimensions of local government law which are important. These are the constitutional status of local governments (1.), the relation of the municipality to its inhabitants (2.), the relation of the municipalities to the supervising state authority (3.), the cooperation between municipalities (4.) and finally the municipal companies (5.).

4.1 Constitutional status of local governments

Most European constitutions grant the right of local self-government to the municipalities and some even to the counties (Panara, 2013: 369-370). If a constitution lacks this twofold guarantee there remains at least the European Charter of Local Self-government which has been adopted by most member states of the Council of Europe. But when towns have grown into large cities, they do not fit into this scheme any longer. Therefore, urbanisation questions the homogeneity of local communities which is an implicit assumption of local self-government and its laws. Frequently, state law makes such cities leave the county and form a county of its own. So, the tensions between the city and the county can be mitigated at the expense of distancing from the constitutional model.

4.2 Relation of the municipalities to its inhabitants

Next, urbanisation has an impact on the relation between the municipality and its inhabitants. The bigger municipalities get, the more services they provide to their inhabitants. This also leads to less reliance on personal relationships: Citizens depend more and more on local public services and do not know each other as well anymore (Chaolin, 2020: 150) and therefore cannot rely on each other as they used to. In summary, as urbanisation takes place the relationships between local communities and their citizens become more impersonal over time.

4.3 Relation of municipalities to the supervising state authority

Also, urbanisation affects the relation of municipalities to their respective supervising state authority. If a town is growing, new challenges arise. Therefore, the administrative capacity of a growing city has to increase as well. As a consequence, the higher-ranking state authority tends to be needed less as a counsellor but more as a supervisor.

4.4 Cooperation between municipalities

Furthermore, urbanisation influences the cooperation between municipalities. Physical urbanisation can lead to functional urbanisation: Small communities and towns have to cooperate by means of administrative treaties or special purpose associations to fulfil all public services. Major cities may offer their services to surrounding villages as well to make use of scale effects (Bel et al., 2007: 510). In such cases the special purpose union may be a preliminary stage of incorporation into the large city (Frenzel, 2013: 120).

4.5 Municipal companies

Finally, urbanisation puts into question the division of responsibilities between the core administration and municipal companies. The sheer amount of public problems in a large city cannot be solved any longer by its core administration on its own. Instead, that administration has to be supported by municipal companies. Those enterprises typically

provide electricity and gas as well as fresh water. Moreover, they dispose of sewage water and clear the waste (Ferreira de Cruz & Marques, 2011: 98). Sometimes, they even make public housing available. Due to the process of urbanisation, the importance of these companies increases in comparison with the core administration of the city. Those companies tend to transcend the borders of the local community in order to compete successfully with private companies. They develop into organizations of their own and become difficult to control and to steer by the local self-government body.

5 Public building law

The effects of urbanisation are not limited to local government law but also influence public building law. They have an impact on the procurement of land (1.), the process of planning (2.), the creation of the necessary infrastructure (3.), the erection (4) and finally the use (5.) of buildings.

5.1 Procurement of land

In the process of urbanisation, the central question of public building law is the procurement of building land. In the first decades after the Cold War former military areas could be converted but now that resource has dwindled. On the one hand, local governments can try to increase the density of buildings, but such actions usually collide with the interests of the inhabitants already living in that area. On the other hand, former agricultural areas may be used and changed into zones of living (Home, 2007: 460-462). However, the farmers then need other areas as compensation. Ultimately, all these measures are limited by private property of land. As long as private landowners are not willing to sell, urban development comes to a rest.

5.2 Process of planning

Urbanisation also influences the process of planning new building zones. The necessary procedure can take several years and is further complicated by environmental requirements which often stem from European Union law.

5.3 Creation of necessary infrastructure

Physical urbanisation cannot be realized without the necessary infrastructure. New zones of living require new roads and new train lines, water supply, electricity and gas. Furthermore, the disposal of waste and sewage water must be ensured. If this infrastructure is not created in time, physical urbanisation must either come to a halt or slum-like quarters develop (Kötter, 2004: 3).

5.4 Erection of buildings

Moreover, public building law has to respond to the demands of urbanisation in terms of the erection of buildings. High environmental standards and strict labour regulations impede the fast construction of houses. If the challenges of urbanisation shall be met and those standards shall not be reduced the public building law has to find new answers such as the approbation of types of buildings instead of single buildings or the setting of targets to be met instead of means to be used.

5.5 Regulating the use of buildings

Finally, lawmakers have to decide whether public building law shall also regulate the use of buildings (Gruis & Nieboer, 2007: 49-52). For instance, a certain quota of apartments in a large building project can be reserved for lower-income households. These social housing quotas could be applicable to newly erected buildings only or to older structures, too. If such quotas shall be used one has to keep in mind that they represent a deep interference into the fundamental rights of property owners.

6 Civil service law

The process of urbanisation also affects the civil service law. Urbanisation and dis-urbanisation have an influence on the recruitment of public servants (1.), their qualification (2.) and their motivation (3.). In this context, the payment of the civil servants proves of crucial importance (4.).

6.1 Recruitment of civil servants

Urbanisation massively influences recruitment. In large cities, there are many job-offers for qualified workers (Chaolin, 2020: 148), and the local government administration usually is not the most desirable employer. Often the private sector offers higher wages (Christofides & Michael, 2013: 22), but even if employees choose to stay in the public sector, they mostly prefer working for the state administration instead of the local government. In the countryside, however, local governments are a much more attractive employer in comparison, but there is still a lack of applicants, as aspiring young talents tend to study in the large cities and stay there afterwards instead of returning to their home region.

6.2 Qualification of public servants

As urbanisation makes it more difficult to attract personnel, local governments have to invest in training their existing employees. It becomes a necessity to incentivise employees to obtain further qualifications, although not every staff member wants to improve.

6.3 Motivation of public servants

This leads to the question of motivation. Basically, there are two ways of motivating employees (Min Park & Word, 2012: 707): On the one hand, they can be motivated extrinsically by money and similar benefits which are restricted by the limited amount of public funds. On the other hand, they may be motivated intrinsically by their important function serving the public good (Brewer, 2003: 20). It is an important task for every local government to foster this intrinsic motivation.

6.4 Payment of public servants

The best intrinsic motivation will not suffice however, if the compensation for civil servants is inadequate (Min Park & Word, 2012: 715). In this context, the amount and the structure of compensation play a role. It is obvious, that higher compensation attracts more and better qualified employees, but the composition of payments also affects the recruitment of personnel. Traditional compensation systems differentiate according to the formal qualification of civil servants, the seniority of public service and social aspects such as marriage status and the number of children. Therefore, working in the public sector is especially interesting for long-serving, married employees with children. Generally speaking – of course there are exceptions – those are not the most flexible and motivated public servants. Therefore, modern systems of payment should take other factors into account as well, such as individual performance and willingness to work over-time.

7 Public finance law

After considering the effects of urbanisation on civil service law, one also needs to look at public finance law which has to provide the means without which other branches of the public sector would not be able to pursue their goals. Public finance law forms a connection between the responsibilities of local governments (1.), the expenses to meet those responsibilities (2.) and the revenues to finance these expenses. Financing may come from public charges (3.), systems of financial transfer (4.) or loans (5.). Moreover, new methods of budgeting strive to reform the budget system (6.).

7.1 New responsibilities of local governments

Urbanisation leads to new public responsibilities. Inhabitants of large cities demand more and better public services, for example large-scale projects like subways are only needed in rather large cities. Besides, urbanisation increases social problems (Zhang, 2016: 246-248) which leads to a higher demand for social services like childcare or coping with unemployment and immigration. These new functions are mainly performed by local governments as state agencies often lag behind.

7.2 Expenses to fulfil the tasks

Therefore, urbanisation leads to higher financial demands so that local governments can fulfil necessary tasks related to infrastructure and social services (Richardson, 1987: 578). Generally, this results in higher public expenditures per inhabitant.

7.3 Revenue by public charges

In order to compensate for these higher expenses local governments have to rely on revenues generated by public charges in form of taxes, contributions and fees (Kitchen et al., 2019: 110-115). In the process of urbanisation, tax revenues often increase¹ as well, but usually not at the same speed as expenditures. This time lag leads to a financial gap. In general, contributions, for example for new roads, cannot fill this void. They are difficult to justify as the advantages of new infrastructure for the public often outweigh the advantages for the neighbours of these projects. Moreover, the sum of contributions may not exceed the costs of the infrastructure project they are paid for. The same is valid for fees. Ideally, they cover the costs of an administrative activity for which they are charged but don't transcend them.

7.4 Systems of fiscal transfers

Therefore, urbanisation increases the need of local governments for allowances coming from systems of fiscal transfer (Schroeder & Smoke, 2003: 24). However, those systems often do not take into account the real costs of infrastructure or social services but are only orientated at the raw number of inhabitants. Although they sometimes upgrade the numbers of inhabitants progressively, the main cost factor is not only the absolute figure of residents but the rate of increase or decrease in their numbers. As a result, not only urbanisation but also dis-urbanisation leads to higher costs of local governments which should at least partially be compensated for by systems of fiscal transfer.

7.5 Public debt

If neither higher taxes nor more funds from systems of fiscal transfer suffice to compensate the higher expenses due to urbanisation, cities have to take out more loans (Kitchen et al., 2019: 124-127). Those credits usually have to be approved by the state supervisory agency (Kitchen et al., 2019: 236), which leads to the question whether the state has to guarantee the loans of its municipalities. Those credits form a short-term gain but a long-term loss. Often, they cannot be paid back by local governments and so municipalities find themselves in a debt trap they cannot escape from without help from the state government.

7.6 New developments in budget law

Social urbanisation influences budget law as well. Its effects can be detected not only in the process of budget-making but also in the results. Participatory budgeting is process orientated. Citizens who become more interested in financial questions get a direct say in the use of at least a small part of the fiscal means of a municipality (Holtkamp, 2008: 223-226). Gender-budgeting however is focused more on the results of the budget-making process. It asks whether public services are primarily used by men or by women or by members of both sexes alike and tries to draw conclusions from these data (Himmelweit, 2018: 94).

8 Influence of the corona pandemic with urbanisation in the background

Against this background of urbanisation, the corona pandemic is hitting Europe and the rest of the world. It is not only a medical threat, but it also poses new challenges for local government (1.), public building (2.), civil service (3.) and public financial (4.) law.

8.1 Local government law

In the face of the current pandemic quick reactions are necessary. Municipal authorities have to coordinate and execute countermeasures. As a result, the importance of mayors increases, whereas local self-government bodies, the “local parliaments”, have difficulties to convene and to make decisions. Therefore, it is of great importance for the state parliament to change the local government code and for the local parliaments to adapt their standing orders, to guarantee the functioning of local self-administration. For example, the period for transmitting the agenda before a session may be shortened or the quorum for valid decisions reduced.

8.2 Public building law

Public building law has to strive to accelerate all planning and building processes for structures urgently needed to counter the pandemic such as vaccination centres or emergency hospitals.

8.3 Civil service law

Civil service law has to point out that there is a duty for public servants to work in different departments of the local government administration and for instance accept being transferred to the health division. Moreover, one might discuss whether there is an obligation for civil servants to be extremely careful in order to protect themselves from the pandemic and be able to continue their work. Finally, when a vaccination will be available one may consider their obligation to become vaccinated.

8.4 Public finance law

Although several fields of law are concerned, the pandemic puts the greatest burden on public finance law. Local governments have more functions to perform which lead to more expenses. At the same time tax revenue decreases dramatically (Dorn et al., 2020: 14). If local governments do not receive more funds from systems of financial transfer, they are obliged to take out more loans. Thus, their former efforts to consolidate their budgets have been rendered useless within just a year.

9 Conclusions

Summing up, it becomes clear that urbanisation takes place in different forms and varying, often overlapping phases. It affects many sectors of law, especially local government law, public building law, civil service law and public finance law. The corona pandemic poses new challenges to these fields of law and will decide whether the general process of urbanisation will continue or whether we will enter a new phase of dis-urbanisation.

Notes:

¹ Zhang (2016: 246 and 249) describing an erosion of the tax base due to the rise of the informal sector.

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