

THE DEVELOPMENT OF URBAN LEGISLATION IN SERBIA AND ENGLAND

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Abstract. *This paper discusses the development of legislation in the fields of urbanism and construction in Serbia and worldwide (England is used as an example). This development is viewed through characteristic periods and the enacted laws and regulations are systematized. The introduction of urban legislation is recorded in Serbia when the Construction Act of 1931 was enacted whereas in England it was the Town Planning Act of 1909.*

Key words: *legislation, the Construction Act, the Town Planning Act.*

1. INTRODUCTION

Urban planning (from the Latin word urbanus: of or belonging to a city) is concerned with the design of urban environment in light of the aesthetic, salubrious and practical needs of the population and from the linguistic point of view it is a word (expression) that is characteristic of urban parlance.[1]

Its basic meaning has not changed to date. However, urban planning has made a progress through the centuries in its concept and branch of knowledge. The principles and theories of the urban planning have changed in accordance with the closely intertwined political, social, economic, cultural and social progress.

Moreover, legislative regulations are closely linked to the political, economic and social well-being of a state. Therefore, one should know the historical facts of a state in order to fully study the system of legislation.

The laws and plans that date back to a certain time in the past are the ones that reflect that period, the way of life of a community and not the buildings themselves.

Prior to the introduction of public control, i.e. laws and regulations for land use planning, land owners were free to dispose of their property and they were only obliged to abide by the general law.

Consequently, this meant that the landowner was free to use his/her land in a way that suited him/her best provided that he/she used his/her own turf and did not trespass to the neighbour's property.

Nowadays, many societies demand that this freedom be limited to the public good but also that the property is used to the long term benefit of the community as a whole and not only for the needs of the landowners.

In this paper the beginning and development of urban legislation in Serbia and England is discussed until the introduction of urban planning. Analysis, systematization and periodization of the laws are used so as to demonstrate the development of urban planning. The method of comparative analysis is used in order to compare this development in our country to the one used worldwide (England is used as an example) and to draw conclusions.

2. URBAN LEGISLATION IN SERBIA

This paper discusses the development of urban legislation in Serbia by examining the legal framework in various time periods.

This legal framework encompasses:

- 1) law as the general act
- 2) bylaw - the corresponding rulebooks
- 3) other regulations

The main criterion for the chronology (periodization) is the period of laws that came into effect or the period of momentous events that correlate with the social relations and establishment of a country (e.g. the growth and reforms of the 60ties, the period of self regulation etc).

There are three periods to be named considering the aforementioned facts:

- The Period of Principality (and then Kingdom) of Serbia
- The Period of Kingdom of Serbia
- The Period of Socialist Federal Republic of Yugoslavia

2.1. The period of Principality (and then Kingdom) of Serbia

During the Ottoman Empire the Serbian people took almost no part in the social, economic and urban structure of the settlements. The design and development of urban settings was under the influence of the Turkish rule because those communities were not only the center of the Ottoman Empire but the population mostly consisted of the Turks as well (the Serbs were in the minority).

According to the recent findings, there were no strategic plans of the design of communities in the Northern Serbia at the beginning of the 19th century. Travelers who went through the country witnessed the following scene: the street networks had no system of streets for the whole area, the streets were winding and narrow; the viewers were faced with a negative impression of those towns. [3]

The Principality of Serbia came into existence in 1815 and lasted until 1882 (the year when it was raised to the level of the Kingdom of Serbia). It won full international recognition in 1878 (Fig. 1). The Serbian people resisted the Ottoman oppression during the Serbian revolution. This revolution was national and social revolution of the Serbian people with two armed uprisings taking place (First Serbian Uprising in 1804 and Second Serbian Uprising in 1815). These events marked the foundation of modern Serbia in that Serbia started to keep up with the other European states and accepted their values of civil society. [6]



Fig. 1. The Principality of Serbia after the Treaty of Berlin in 1878 [6]

This period is marked with great migrations, ending the fighting with the Turks and border establishments (by liberating certain parts of Serbia). These were also the times when great efforts were put into creating, strengthening and modernizing the liberated Serbia.

The second revolution ultimately resulted in Serbian semi-independence from the Ottoman Empire, although the country remained culturally and economically devastated. Prince Miloš Obrenović's main task in strengthening the new formed principality was to increase the number of people and the density of towns, given the small number of people (in 1834 there were 684 000 people in an area of 37 740 square kilometers). Many people started to return to their homes; even those from not liberated parts for various reasons such as freedom and many different conveniences. By many decrees and orders (that was the law) prince Miloš granted free land, financial help, tax abolition, free food and crops to the immigrants for the next few years until the time they created their own living conditions.

This diplomatic gambit was one of the most important in the social and urban policy of Serbia and it was designed to increase the national income by increasing the number of people- i.e. taxpayers.

This period (from 1820 onwards) is also characterized by the constant mobility of population. People (inhabitants as well as immigrants) saw the importance of urban fac-

tors, favorable natural conditions, the lie of the land, road route etc. If these conditions were not met people used to move completely or partially to the different and more favorable location.

The authorities started taking considerable measures for town planning when people moved and brought information about the orderliness of Western countries and foreigners came to Serbia due to its openness to Europe.

Therefore prince Miloš issues a decree of closely-built villages in 1837 and this was the first legal regulation in the field of urbanism. He also ordered the immediate orderly development of scattered villages Čumić, Trnava and Žabari so as to give an example for other villages to be developed. [3]

The term 'village lane' encompasses the whole process and has nothing to do with the notion of street regulation. This process is comprised of joining surrounding villages in one settlement, the formation of regular patterns of approximately symmetrical streets and building up new settlements on new locations.

This kind of planning had not only aesthetics in mind, natural and economic factors but cultural and educational ones as well. If the houses are grouped as one unit and people turn to each other, then the information and the culture spread more easily.

However, people put up huge resistance to this major breakthrough even though the prince envisaged radical measures for those who did not comply with the decree. The plug was pulled eventually on the whole process, not least when the new government was elected leaving the scattered type of village existent.

Small towns appeared in Serbia around the year of 1830. The first zoning regulations were put into effect; private property and public (schools, streets, etc) became separate. Land parcels were built in a most ordered manner and many towns such as Gornji and Donji Milanovac, Požega, Kraljevo, Lešnica, Bajina Bašta etc followed the lead of the European urbanism.

Prince Miloš ordered the reconstruction of towns on the principles of town planning. Once the town plans were implemented, they were under Prince's consideration and analysis. At first laymen designed urban plans; afterwards experts, mostly foreign engineers enforced them (Serbia had a shortage of educated people at that time).

The first plan was designed for the new small town called Donji Milanovac by the Duke of Poreč, Stefan Stefanovic Tenka (Milanovac was named after Milan, Miloš's son, its former name was Poreč) (Fig. 2).

The capital city of Serbia Belgrade (from 1841) was

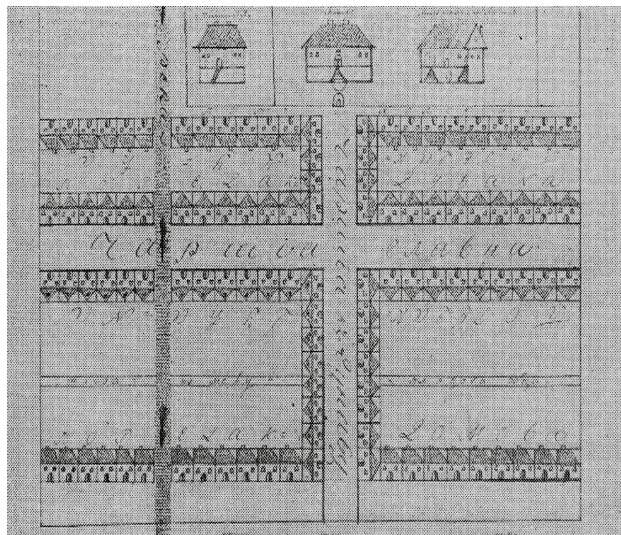


Fig. 2. Donji Milanovac, the first regulatory plan of 1831 [3]

planned as an attempt to legally regulate it. Emilijan Josimović surveyed Belgrade in 1866, and one year later he published his map 'Belgrade in Šanac' at the scale of 1:3000. He also applied the land consolidation and a regular network of streets and blocks. His idea was to formulate the basic principles of land regulation and to make a plan that would be a blueprint for a law; however, the law was not enforced.

Urban planning and development of settlements was not regulated by law. Prince Miloš was the spearhead who put various decrees and orders into effect. Afterwards regulatory bodies who made such decisions were formed: commission, ministry and council.

Although there was no law to regulate urban planning, the first constitution, several decrees and writs were enacted and they laid the foundation for the further development of urban legislation:

- Sretenje Constitution of Principality of Serbia (1835)
- Decree of closely-built up villages and village lanes (1837)
- Official announcement to the authorities about regulations (1864)
- The law on construction of public institutions (1865)
- The law on expropriation of private immovable property for the sake of the people (1866)
- The law on places (1866)
- The bill on regulation of the town of Belgrade (1867), it was not adopted until the 1920s
- The Construction Act for the City of Belgrade (1896)

The law on expropriation of private immovable property for the sake of the people was significant because it served as a blueprint for the reconstruction of the Turkish towns. The state and municipalities were granted with a lot of freedom to put expropriation into practice for the sake of progress, damage removal and improvement of the place (Article 3 of the Law). These provisions were not envisaged even later by the much advanced Construction Act of 1931 that enforced expropriation only for technical and salubrious purposes (Article 107 of the Act). This law represented major contribution to the urban legislation in Serbia, considering the time and conditions of its creation.

2.2. The period of Kingdom of Yugoslavia

The Kingdom of Yugoslavia (from 01 December 1918 until 03 October 1929 was officially called Kingdom of Serbs, Croats and Slovenes) existed from the end of World War I until the World War II (1918-1945).

This interwar era of 1931-1941 is significant for the development of urban legislation.

Urban planning was the backbone of the whole system of planning because there was no spatial planning as it is known today. The main laws were:

- *The Construction Act (1931)*
- *The Act of designing regulation plans (1932)*
- *The General Act of village planning (1936)*

The Construction Act defines that every city and town should have its own regulation plans, decrees about plan implementation and building regulations. The base of urban planning was implemented according to the conditions and needs of specific places and pursuant to the provisions of the Act.

This law is exact and precise, it has 139 articles and four parts:

1. Cities and towns (market towns)
2. Villages
3. Industrial and mining towns, spas and health resorts, tourist places
4. Transitional and final orders

The first part of the Act prescribes that every municipality in cities and towns should have regulation plans in force, decrees about plan implementation and building regulations. Further in the subheadings zoning, salubrious and technical regulations are defined.

Zoning laws regulate: construction area and zones, the height and number of floors in a building, declaration of a national park, architectural features, historic and artistic cities and buildings etc.

Construction area is prescribed by building regulations and regulation plan and it consists of the narrow area that as a rule embraces built-up and populated parts of the town; wide area that includes not built-up and unpopulated parts and a strip of land that must not be populated. Construction zones are also defined by regulation plan and they can be divided into: 1) high-density housing with house fronts; 2) medium-density housing with semi-detached buildings 3) low-density housing with detached buildings.

Salubrious regulations control: flat and its hygiene, insurance against moisture, the height of premises, room for the cattle, tanks, wells etc.

Technical regulations control: allowed material stress, walls, roof beams, roofs, stairs, chimneys, etc.

This Act embraces several approaches in the field of construction areas, i.e. building parcels: delineating parcel borders, appropriation, parceling out, land consolidation and expropriation. The aims and objectives were clearly defined in that period; first and foremost they included construction (not development), aesthetics, architecture, improvement of hygienic conditions, quality of buildings and living standards.

The 'city' remained clear of mass influx of people until World War I; industry and technology produced no massive pollution. This led to the introduction of such an Act.

Urban planning was developed although there was no spatial and regional planning, sustainable development (it was not necessary) and documents to prove this. As a result of a well thought out Construction Act and the other rules, regulation plans are still preserved from that time in history as well as buildings that serve as a good example of this.

However, critics of this Act stress out the lack of penal provisions and the fact that it is not applicable. 'The Construction Act was the only act that had no sanctions in the event of default, and eventually it remained a dead letter. All provisions of the law for construction, building up public institutions, land consolidation, demolishing insanitary flats were not in ten years of existence put into effect in a single town.' [2]

At the time when the Act was enacted, in the interwar period people started flocking to bigger cities. The immigrants had no plan for construction and they used primitive tools only to provide a roof over their heads, thus creating substandard housing. At the same time high-rise buildings were constructed in the center of towns as a result of improvements in technology.

2.3. The period of Socialist Federal Republic of Yugoslavia

The Socialist Federal Republic of Yugoslavia (SFRY) was the Yugoslav state founded during World War II in 1945 until it was dissolved in 1992.

This time in history can be divided in several sections (considering the development of planning):

- *The period of renewal and reconstruction (1948.-1961)*
- *The period of growth and economic reforms (1961-1974)*
- *The period of self-management (1974-1985)*
- *The period of long-term economic stabilization (1985-1990)*

The period of renewal and reconstruction (1948-1961)

The main objective was to reconstruct the country and devastated towns and cities as quickly as possible. Urban planning remained dominant whereas spatial planning would be introduced later on. The decrees enacted were as follows:

- *The basic decree of construction (1948)*
- *The basic decree of general urban planning*

The period of growth and economic reforms (1961-1974)

This was a significant period in that it recorded the introduction of spatial planning and its development in a narrower sense. The enacted decrees were:

- *The law on urban and regional spatial planning (1961)*
- *The law on urban and regional spatial planning (1965)*

The Regional plan of the coastal areas of the Danube from Belgrade to Bulgarian border (1960-1963) set the ground for **the establishment of spatial planning in the new era of planning**.

3. URBAN LEGISLATION IN ENGLAND

3.1. The beginning of its development-XIX century

The British Agricultural Revolution (1750-1900) saw an epoch-making increase in the amounts of food; The Industrial Revolution (1760-1830) allowed the population to move from villages to towns; as a consequence high-density areas and competition for space ensued.

The setbacks in urban and rural planning in England arouse mainly due to the fact that the population exploded, especially during the nineteenth century. There were about 11 million people around the year of 1800, in 1850 that number was almost doubled to 21 million, in 1900 37 million people were recorded (picture 3). This rapid increase caused the physical appearance of the earth to change and brought many other problems. A new situation could not be controlled by the enforced laws and regulations that mainly referred to the technical and salubrious conditions.

Namely, the authorities started enforcing the policy of planning as a means to improve public health that was impaired due to epidemic, insanitary conditions, the lack of running water and short life expectancy.

In the aftermath of cholera epidemic (1831-1833) the authorities hired experts who would pinpoint the causes of poverty, sickness and death in London.



Fig. 3. Peckham 1842 (left), Peckham 1891 (right) [7]

One of the major documents of that research is Sir Edwin Chadwick's report *The Sanitary Conditions of the Labouring Population* published in 1842. These conditions aimed to improve the quality of life in view of the fact that healthy population would live and work longer.

This report set in motion many other laws to be passed, such as *The Public Health Act 1848* and *The Sanitary Act 1866*.

The local authority gradually took its share of responsibility for provision of clear water and removal of effluent. Prior to any construction, the authorities were provided with the details of clear water provision and sewage (drainage). Besides, they controlled the size of rooms, space around houses and street width.

Construction workers wanted to build as many houses as possible on a small space. This resulted in monotonous lines of streets with bleak row houses. Nevertheless, a great step forward was the passing of The Public Health Act.

In 1868 *The Artizans and Labourers' Dwelling Act* was passed. This law provided necessary conditions for the artisans' and workers' substandard housing to be demolished, and if possible refurbish those houses.

In 1888 *The Local Government Act* was enforced and amended in 1894. This was result of the reform of local government and consequently public health and dwelling was improved. It was the first systematic attempt to impose the standard system of self-government in England. State council was formed after the first law and municipal council after the second. Until the end of the century an efficient system of local self-government was established with major contributions in public health and dwellings.

Plans for town expansion in the field of construction legislation differed greatly from the former plans due to the new factors. Urban legislation that appeared in the second half of the nineteenth century in Europe invoked public interest and social hygiene. However, this was not the case in practice, because provisions of this law approved of the insalubrious construction of the whole new areas of cities. [2]

First works that date from that period labeled towns as pathological phenomenon. Substandard living in industrial cities inspired some of the leading urban theorists to start the search for a 'green city'.

Ebenezer Howard (1850-1928) wrote the book called *Garden Cities of Tomorrow* influenced by the poor living conditions of London at the end of the nineteenth century. He had a vision and a detailed plan of the 'garden city', which was one of the first utopian attempts to envisage 'green city'. According to his vision, there should be a series of independent cities in natural surroundings with agricultural chains that provide food. This city would have its own industry and employ the residents. People would be far away from the overpopulated cities and this would ensure them a better quality of life. Howard believed that cities were doomed.

In England as well as in many countries there was no law that would provide spatial planning, but some of them were definitely significant for the further development of urban legislation:

- *The Sanitary Conditions of the Labouring Population (1842.)*
- *The Public Health Act (1848.)*
- *The Sanitary Act (1866.)*
- *The Local Government Act (1888.)*
- *The Local Government Act (1894.)*

Development from 1900 to 1947

At the beginning of the nineteenth century a major breakthrough was *The Town Planning Act* in 1909. This was the first law in the area of urbanism and town planning in England. The local council was obliged to design planning schemes [4], mainly for suburban land that could be used for the construction and growth of the surroundings.

This law also prevented the building of 'back to back' houses that symbolized the poverty of the industrial cities and homes had to be built to certain standards.

'Back to back' houses (picture 4) are two houses that share a rear wall (or in which the rear wall of a house directly abuts a factory or other building). Usually of low quality (sometimes with only two rooms, one on each floor and high density), they were built for working class people. Three of the four walls of the house were shared with other buildings and therefore they were ill-lit, poorly ventilated and sanitation was of a low standard.

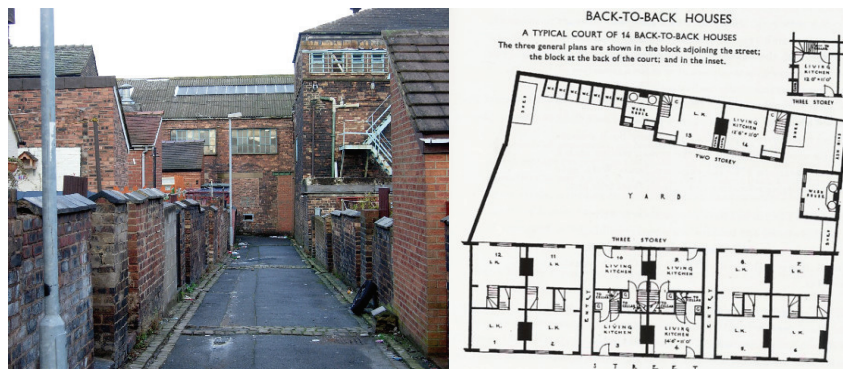


Fig. 4. Back-to-back houses [8]

Planning schemes meant that land close to towns should have sanitation, that it should be suitable for construction and this area had to be connected to other surroundings. Besides sanitation that was the cornerstone of the reforms of the nineteenth century, comfortable surroundings and their connection with the other area were added to the law. The highest number of buildings on one place was regulated, as well as their appearance and the way they could be used. These schemes could define the zones that were determined for specific kinds of facilities.

The introduction of these schemes was a painstaking process and in 1919 *The Housing and Town Planning Act* triggered the concept of temporary development controls, that was in force from the moment the council approved the schemes and they took effect.

This Act marked the tradition of state-owned housing, which would much later evolve into council estates. A council house is a form of public or social housing. Council house development peaked in the mid-20th century, at which time council housing included many large suburban 'council estates'.

This type of town planning was a direct consequence of World War I when there was a need for building up new houses. This led to the campaign known as 'homes fit for heroes to live in'.

In 1930 *The Housing Act* was enacted and it introduced programme for the clearance of slums; local authorities were forced to provide housing for those who lost their homes during slum clearance.

The next big step was *The Town and Country Planning Act* of 1932. Local authorities designed development schemes for any area in England, not only for suburban as so far. This was the first law that introduced rural planning. It was amended in 1935 by *The Restriction of Ribbon Development Act*. The main objective of this law was to prevent a long row of houses built along a major road leading out of a city.

All the laws in the period between 1919 and 1943 were based on the concept of development schemes. They were surely innovative when it came to new constructions, they initiated certain standards in the building of new facilities and controlling of the already used ones. However, new problems emerged and it soon became clear that development schemes were not enough to solve them. The number of people still exploded, although slightly slower than in the nineteenth century. The volume of traffic and cheap supply in electric energy changed the face of the Earth. The cities continued to expand even out of their limits.

One of the main stumbling blocks was further industrial development. There was a need to plan the location of industries and a danger was detected from the rapid growth of cities. Therefore *The Royal Commission on the Distribution of the Industrial Population* (the Barlow Commission) was founded.

Barlow Report in 1940 concluded that most cities suffer from large concentration of industries that strategically, socially and economically impinge on the existence and growth of those cities.

Scott issued a follow-up report in 1942 after *Committee on Land Utilisation in Rural Areas* was formed. These two reports were extremely important for the development of urbanism.

Barlow and Scott Report also highlighted the weaknesses of the Act of 1932 and that growth should be controlled. The acts in the field of urbanism created conditions for the development of safer and comfortable surroundings; however, they were not adapted to the growth of cities and the problems they created. In order to improve this situation, both

reports recommended national system of planning via central government, town planning control in all parts of country, national plan for the location of industries and population.

In 1946 *The New Towns Act* was enforced according to which eleven towns in the period until 1955 were formed.

This act and Barlow and Scott Report were basis for the *The Town and Country Planning Act* of 1947 that introduced system of planning as we know it today. Planning and urban legislation prior to 1947 had a regulatory role with the elements of town planning with development plans. Laws and by-laws in that period were:

- *The Town Planning Act (1909.)*,
- *The Housing and Town Planning Act (1919.)*,
- *The Housing Act (1930.)*,
- *The Town and Country Planning Act (1932.)*,
- *Barlow Report (1940.)*,
- *Scott Report (1940.)*

4. CONCLUSION

According to all the facts mentioned it can be concluded that urban legislation in Serbia and worldwide was established at the beginning of the twentieth century whereas the basis, emerging problems and many laws and regulations were introduced in the eighteenth century.

The Construction Act was enforced in Serbia in 1931 while England enacted *the Town Planning Act* in 1909. The difference was the fact that the English act introduced *planning schemes* to plan the cities growth whereas the Serbian act was exclusively connected with *construction*.

Both countries went to great lengths to overcome many problems that World War I and II created, such as hygiene, the lack of apartments (as a result of industrialization and war), unplanned and irregular cities expansion. It was no wonder that immediately after World War II *spatial planning* emerged, i.e. the one we know today and that urban legislation that had a regulatory role was insufficient to solve all the problems and demands of contemporary society.

The final conclusion is that Serbia kept up with Europe in the field of urbanism in the eighteenth and nineteenth century. However, it was one step backwards because the bases of town planning via planning schemes were provided in England as early as 1909. Serbia is out of step now because legislation misses many things that developed countries have for many years.

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RAZVOJ URBANOG ZAKONODAVSTVA KOD NAS I U SVETU**Tanja Obradović, Petar Mitković**

U ovom radu se istražuje razvoj zakonodavstva u oblasti urbanizma i građenja, kod nas i u svetu (na primeru Engleske). Razvoj se prati kroz karakteristične periode i daje se sistematizacija donetih zakona i propisa. Evidentira se početak uređenja urbanog zakonodavstva u Srbiji kroz usvajanje Građevinskog zakona 1931.godine a u Engleskoj primenom The Town Planning Act 1909.godine.

Ključne reči: zakonodavstvo, građevinski zakon, the town planning act.