

# A Survey of Bulgarian (National) Planning and Regulation Acts and Documents Concerning Urban Sprawl

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**Abstract:** In the last 20 years, the built-up areas of Europe have increased by 20%, while the population increased by 6% only. Given the fact that urban sprawl occurs when the rate of land-use conversion exceeds the rate of population growth, we can now talk about the existence of urban sprawl in Europe. In Bulgaria, during the period 2004-2012, the developers' interest in agricultural and forest lands located outside the development zones of different settlements increased in parallel with the construction development of urban areas, mainly around larger towns, resort and holiday areas. The low price of agricultural lands can be seen as one of the main reasons in this regard. The issues of the utilization of agricultural lands, their conversion into urban (construction) lands, and zoning have been defined by a number of national and local legal acts, which were passed and subsequently renewed/modified in a more recent period. The main act regulating the spatial planning and construction on the territory of the Republic of Bulgaria is the SPA (Spatial Planning Act). The ALPA (Agricultural Land Protection Act) and its corresponding regulations provide an appropriate legal basis for the protection of agricultural lands and their yield. Overall, as different acts and regulations concerning issues related to the conversion of agricultural, forest, and protected areas are not in conflict, they may be said to have been harmonized. There are, however, some points which leave possibilities for uncontrolled urban growth.

**Key words:** Urban sprawl, urban planning, Bulgarian, spatial planning.

## 1. Introduction

Urban sprawl is widely defined as unplanned and uncontrolled urban expansion. The EEA (European Environment Agency) has described sprawl "as the physical pattern of low-density expansion of large urban areas, under market conditions, mainly into the surrounding agricultural areas" [1]. Europe is the most urbanized continent in the world and approximately 75% of its population lives in urban areas. In the last 20 years, the built-up areas of Europe have increased by 20%, while the population increased by 6% only. And given the fact that urban sprawl occurs when the rate of land-use conversion exceeds the rate of population growth, the existence of urban sprawl in Europe has

become evident. Of course this applies in varying degrees to different countries.

During the period 2004-2011, and particularly before the beginning of the global economic crisis, while construction development in Bulgaria soared, the developers' interest in lands located outside the development zones of different settlements increased in parallel with the development of urban areas. The trend was stronger in larger towns, resort and holiday areas. Developers' intentions about non-urbanized territories can be divided into several mainstream groups:

- The first one, using the land according to its originally designated purpose. They are further motivated by the possibilities for obtaining subsidies from the EU (European Union) funds. The yield, technological,

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ecological and economic qualities of the agricultural lands are of paramount importance to them;

- The second one, agricultural land use change for construction unrelated to initial land use, mostly for housing complexes, public services and industrial buildings around major settlements, important transport links and in mountain and sea resort areas;
- The third one, using non-urban territories to the needs of linear infrastructure in relation to technical infrastructures, areal, ground and underground infrastructure;
- The last group, i.e. group four, aims at using the land for RES (renewable energy sources) industry—solar

and wind farms, etc. This, in particular, requires a considerably larger area of agricultural land, as compared to the second group, but does not deal with urban sprawl. Stakeholders have particularly been attracted by the possibility for obtaining funding under EU programs under highly preferential conditions, envisaged in the RES Act, until its amendments in April 2011.

The activities of the second and the third group to varying extent contribute to creating conditions for sprawling. These activities, however, come as a result of various factors, terms and conditions, some of which have become the driving force behind uncontrolled and illegal urban development (Fig. 1).

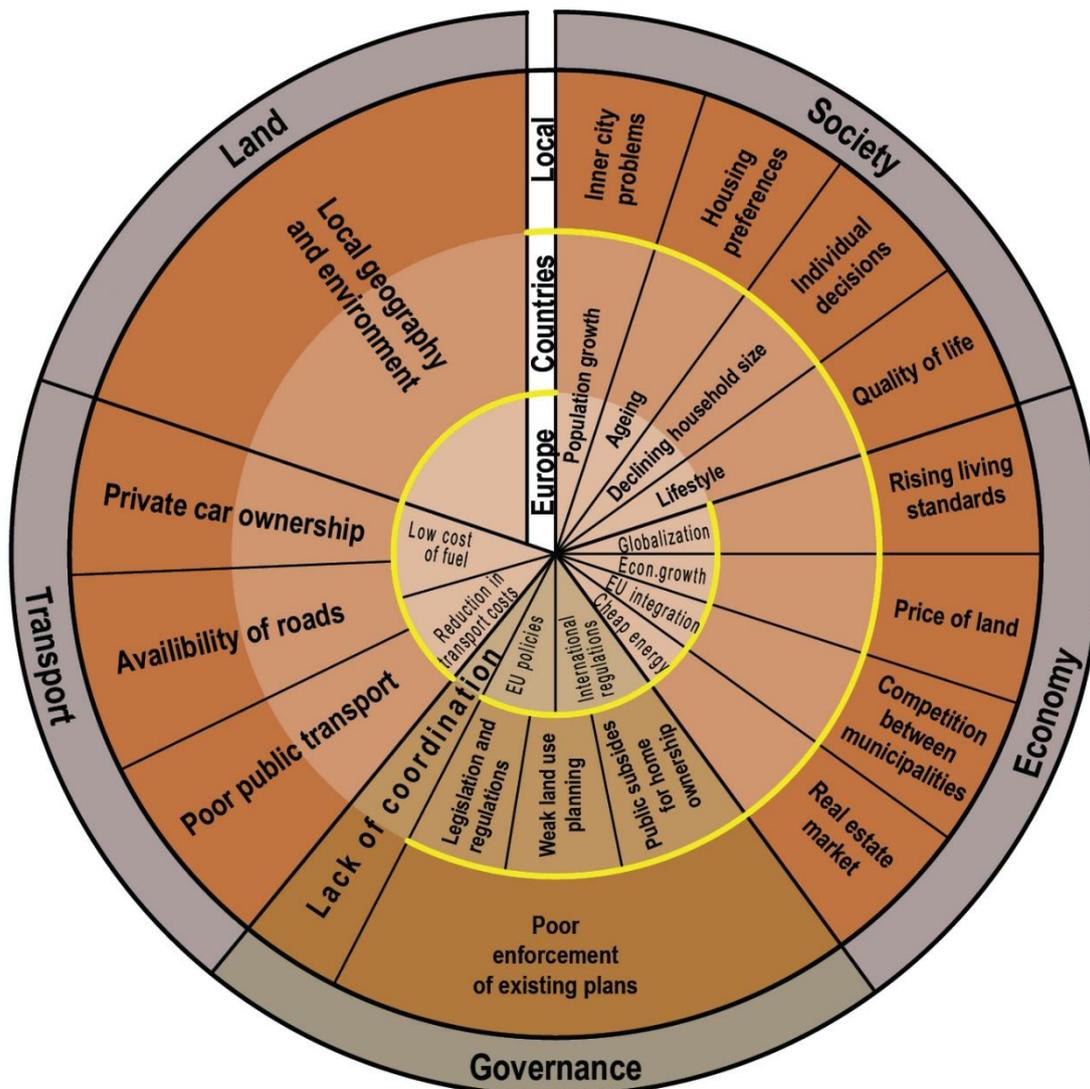


Fig. 1 Main drivers of current urban sprawl in Europe with focus on the regulatory framework.

Source: The European environment—State and outlook 2010. Land use [2].

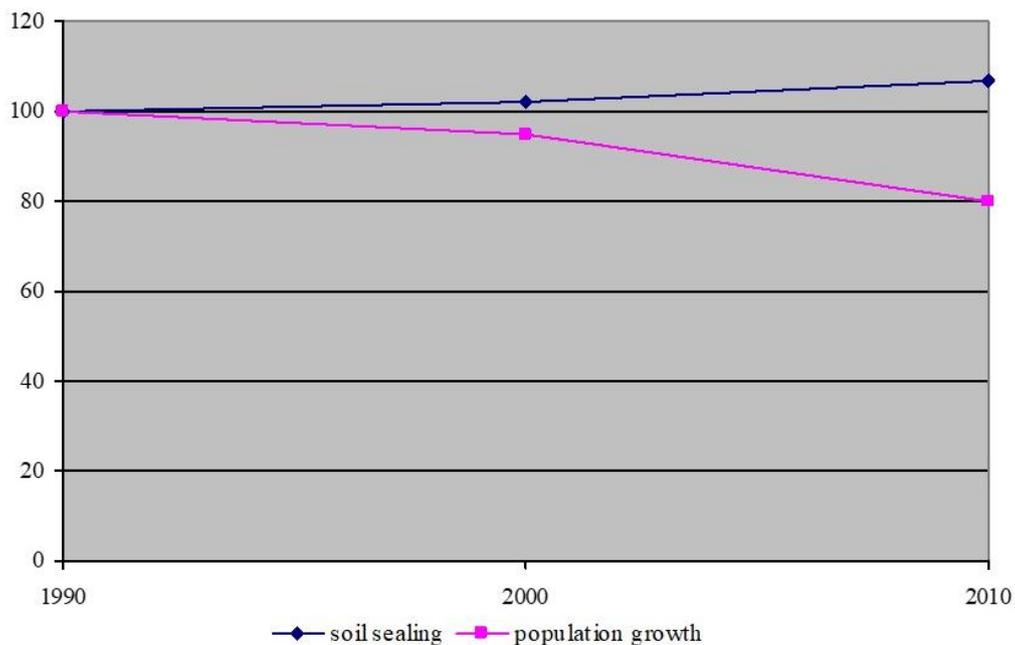
As Fig. 1 clearly shows, the main problem causing the increasing impact of the others is the lack of coordination between different governance levels and the poor policies for creation and enforcement of urban plans and the respective legislation.

Urban sprawl is synonymous with unplanned incremental urban development, characterised by a low density mix of land uses on the urban fringe. The increase of urbanization, based on the agricultural land conversion and causing soil sealing, is considerably slower in Bulgaria than in rest of the Europe, yet at the same time the total number of Bulgarian population decreases faster (Fig. 2). The process of urbanization is most conspicuous in the agglomeration of the capital city of Sofia, the littoral areas and seaside resorts, and mountain settlements, where the percentage of construction is dramatically above average for the country and building activities until recently have peaked. It is expected, in the years to follow, the process is to become even more salient, owing to the designed infrastructure projects pending for realization (Source: “National report on the environment conditions in Bulgaria in 2009” [3]).

In the last five years, the trend of decreasing agricultural areas on the territory of Bulgaria remained unchanged at the expense of an increase in all other types of territories, mainly urban. The areas designated for agricultural use decreased by 6.5% in 2009, and were allocated to other categories of use, different from agricultural (Executive Agency on Environment, <http://eea.government.bg/cms/bg/soer-bg-2009/2economy/4agriculture>). Driven by rapid construction development, 2005 saw the beginning of a period of significant increase in the area of rural areas with changed use in Bulgaria (Fig. 3).

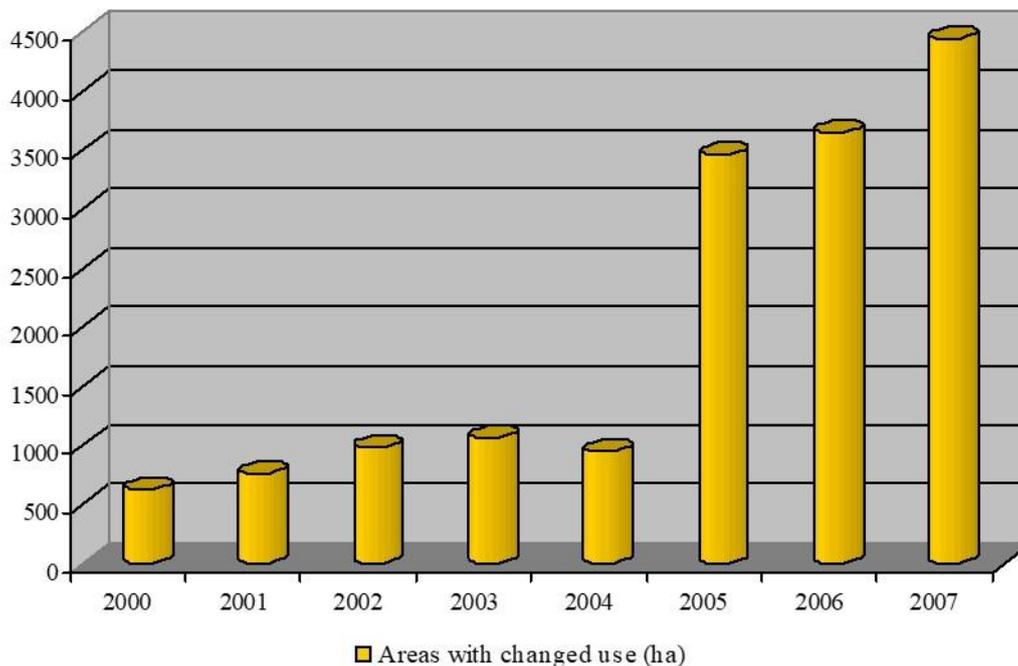
A key point in the process of urbanization is the conversion of unurbanized land (mostly agricultural, in some cases—forest) into urbanized. The possibilities for this and for regulation of the process of agricultural land use change are stipulated in the legislation at various levels of government—global (Europe), regional (state) and local.

This paper will present a brief overview and analysis of key documents from Bulgarian legislation related to the problem, considering whether they create conditions for the prevention or expanding of urban sprawl.



**Fig. 2 Soil sealing and population growth in Bulgaria.**

Source: Analysis of soils under the National Strategy on Environment 2009-2018 Project, through ExEA, CORINE Land Cover Project; NSI.



**Fig. 3** Lands of changed designated purpose of use (ha.).

Source: Ministry of Agriculture and Foods.

## 2. An Overview of the Main Part of the Legislation concerning Rural to Urban Land Conversion and the Resulting Urban Sprawl

Issues regarding rural land conversion into urban areas and zones are regulated and covered by a number of national and local normative documents in Bulgaria—laws, ordinances, regulations, etc., which have over the years been regularly updated and changed at varying degrees. A preliminary review was conducted, and it was found that due to the linkage and harmonization of legislation in the country, the number of documents having some impact on these processes is significant, but the influence of many of them is minimal and can be ignored.

Particular mention must be made of the following main laws and regulations, establishing the framework of urban enlargement, or sprawl:

- the SPA (Spatial Planning Act), adopted in March 2001, last amended in October 2012;
- Ordinance № 7 (rules and regulations for different types of spatial areas and development zones), adopted in December 2003, last amended in 2008;

- the ALPA (Agricultural Land Protection Act), adopted in April 1996, last amended in November 2012;
- the OIALPA (Ordinance for Implementing the Agricultural Land Protection Act), adopted in September 1996, last amended in May 2012;
- the Tariff of the Fees Payable upon Changing the Use of Agricultural Lands, adopted in May 2002, last amended in November 2008.

### 2.1 The SPA and Ordinance № 7

The basic regulatory document, framing the main problems of spatial planning and development in Bulgaria, is the SPA. It was adopted at the beginning of 2001 to replace the Law on Regional and Urban Planning in force until then.

The very first Article of the SPA lays the principles of this law for ensuring a sustainable development and favorable conditions for living, work and recreation of the population.

To control the unintended and not sustainable planning and construction, often leading to chaotic enlargement of urban territories, it is very important for spatial planning to cover the entire national territory.

Such opportunities and ideas are provided by the SPA, but their implementation requires willingness and determination by the institutions and individuals interested in developing such spatial plans. With the recent significant changes in the SPA of October 2012, the provisions of the General plans of municipalities finally set the main requirements to be fulfilled for construction in non-urbanized territories<sup>1</sup>. The change is very substantial and positive, and indicative of the intentions of the government to reduce unplanned, poorly controlled and chaotic construction in non-urbanized areas. Due probably to the still small percentage of municipalities with existing contemporary general development plans, its date of entry into force has been postponed until 2016. And, unfortunately, considering the 12-year history of the SPA with almost 60 changes introduced, there is a possibility for this change to be delayed once again after that period of 3 years, facing the difficulties (mainly financial) of adopting new general plans for all the municipalities.

The SPA defines the main possible ways of land use, and how they are determined. Different territories can be used as urban areas, agricultural areas, forest areas, protected areas, and damaged areas to recover. This is determined by concepts and patterns of spatial development, and general development plans. The SPA provides a hierarchical relation between the concepts of spatial development and spatial plans. Each plan shall comply with the provisions of the concepts and patterns of spatial development and spatial plans of higher degree, if any. With regard to the latter, those of lower degree consider development in greater detail.

According to the SPA's requirements no change in non-urban areas is allowed unless for construction sites whose functions are compatible with the intended use of the property. In non-urbanized areas located outside of urban areas, if a potential investor wants to undertake activities incompatible with the normal use of the land

according to the SPA, this is only permitted after a land use change. And an obligatory part to it is the making of a detailed spatial plan.

The main regulatory document related to the Spatial Development Act is Ordinance № 7, adopted in 2003. It defines the rules and regulations for different types of spatial areas and development zones.

Both the SPA and Article 1 of the Ordinance stipulate that the rules and regulations regarding the territory structure, as well as the regulations on the land required for construction building purposes, shall be determined with a view to the effective use of the territories and maintaining the natural balance. The general provisions on spatial planning, contained in the Ordinance, do not conflict with the SPA law and mostly refer to it.

According to the requirements of Ordinance № 7, and also the SPA, the change of use of agricultural land for non-agricultural purposes shall be established by an order of the Rural Land Protection Act, under the provisions of the development plan. Without the change of use of that kind of land, there can only be constructed buildings/structures whose functions are compatible with the intended use of the property.

As mentioned above, most of the municipalities in Bulgaria have no current General Plans to provide clear guidelines for the development and zoning of settlements and resorts. Therefore, conversions are mostly based on partial development plans, with no relation to the entire urban system. And it is this problem—the lack of General Plans—that is essential for the risk of favoring urban sprawl. By permitting practically any type of development on the new urban plots, the SPA and its Ordinance № 7 create strong incentives for developers and owners to convert land. However, the situation is better in city regions where new general plans for the whole territory of the municipality adopted, but, unfortunately, this only covers a small number of the large cities in Bulgaria. Impediments of institutional,

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<sup>1</sup> In the previous version of the SPA, in chapter 3, section X, article 59, in force from 2003 to 2012, the proviso "if" existed regarding the availability of General Plans.

sectoral or administrative and bureaucratic nature, as well as technical and economic difficulties additionally prolong the process of approval on time to the extent that upon obtaining approval, an update and amendments are already needed.

### *2.2 The ALPA and Its Regulatory Documents*

The law which defines in detail the procedure of rural to urban land change in Bulgaria, and therefore with the greatest impact on the processes of urban enlargement and sprawl is the ALPA. The Act's overall aim is to promote and ensure a secure land system, optimal land use and facilitate broad-based social and economic development without upsetting or threatening the ecological balance of the environment. The ALPA defines agricultural land as a major national asset and changes to its intended use "is allowed only in exceptional circumstances, proven need and the terms and conditions set by this law."<sup>2</sup> Contrary to the intentions of the Act, the practice in Bulgaria has clearly demonstrated that a great number of procedures end with an affirmative resolution for land change. According to the provisions of the existing legislation, construction on rural (agricultural) land of buildings/structures with functions not compatible with the use of the land as such, is only possible after a change of land use under the statutory order, followed by a mandatory action for amendment of the detailed development plan for the territory.

Chapter Seven from the ALPA still provides actions and possibilities for cancellation and modification of decisions on approval of a site and land change. The proposal for revocation or amendment of a decision on changing land use can be made by all the stakeholders (persons or organizations). This is feasible when no action is taken by the stakeholders within the statutory deadlines—three years for requesting a building permission and six years for the beginning of the construction, or when the land plot size exceeds the

needs for which it was provided or when there is no more need for the land use to be changed. In the administrative and penal provisions of the ALPA, fines are provided for individuals as well as legal entities. Fines, however, are set in a very wide range. As a serious problem in this respect, the ALPA and its implementation rules lack specific levels of penalties depending on the size of the breaches. Thus, conditions are created for tolerance of fraudulent actions by owners/investors or officials.

The major conflict with the ideas for sustainable development declared in the laws and norms here considered is to be found in § 2 of the supplementary provisions of the ALPA. Controversial as it is, the possibility of "legalizing" the already build construction on agricultural land is set as possible. And this may result in unplanned and uncontrolled expansion of the urbanized territories.

The details of the terms, conditions, responsibilities, rights and obligations of all the participants in the procedures for disposition of rural land are described in the OIALPA. As well as the other regulatory documents, this one also stipulates as a basic rule that "the conversion of agricultural land is allowed in exceptional circumstances, proven need and with the terms and conditions set out in this regulation", and of course it does not allow construction of facilities not related to the use of the land, without changing its purpose. The OIALPA regulations do not conflict with the ALPA and are even more comprehensive, but they do not remove the controversial points in the Act regarding agricultural lands conversion and their future development either.

The determination of the amount of fees to be paid for rural to urban land use change and the criteria for their formation shall be performed according to the Tariff of the Fees Payable upon Changing the Use of Agricultural Lands. It was adopted at the end of May 2002, with last amendment in November 2008. After

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<sup>2</sup> The Agricultural Land Protection Act, chapter 1, article 2, paragraph 3.

the recent major changes in the SPA of October 2012, the Tariff is under further development to comply with them.

In the current Tariff the fee is determined by a formula<sup>3</sup> whose coefficients depend on:

- Category of agricultural land, specified in the Act of Categorization;
- Land size;
- Land location—settlements in Bulgaria are divided into eight categories under the Law on Administrative and Territorial Division of the Republic of Bulgaria;
- Type of building/structure which is foreseen for construction;
- Possibility for irrigation.

The main and extremely important point of conflict in the tariff is the more than ten times lower rate in the group for the category of place and the type of project when it comes to the conversion of rural land into golf courses. With amendments made in 2008, they were removed from the general column for tourism and sport facilities, and were included in the section which covers projects/facilities which are public state and municipal public property; science, health, education and culture facilities; energy and transport projects; environmental protection and restoration sites, facilities of defense and national security, and others of crucial importance for the development of the country. This certainly happened under a very strong investor pressure, but created conditions for the destruction of large agricultural areas, and, moreover, under very low fee for changing their use.

### 3. Conclusion

The ALPA and its corresponding regulations provide the appropriate legal basis for the protection of agricultural lands, but at the same time they have the most profound impact on the process of urban sprawl in Bulgaria. These acts introduce regulations which are

supposed to limit the allocation of agricultural lands for other economic purposes and uses. Overall, as different acts and regulations concerning issues related to the conversion of agricultural areas are not in conflict, they may be said to have been harmonized.

Still, there remains the problem that after a land use change is made, the regulatory framework sets far too broad and loose parameters for development of the territory. Although the greatest problem is lack of updated General plans for most of the municipalities, creates another problematic reality—the existence of incompatible adjacent areas. This problem is due to the length of the procedure for changing the status of agricultural land. For the duration of a procedure, it is possible for several other processes with different completion times to take place, but in the absence of master plans, and planning practice only existing at a low level, there is a real danger that incompatible activities will occur on their neighboring land. Very often, investors'/owners' individual decisions are detrimental to the future development of the territory, as well as to the urban vision and market rules, ignoring the interests of other individuals, community groups, and market participants.

Despite the fact that the percentage of agricultural and forest lands with changed use in Bulgaria remains small, as compared to the European average, it can clearly be seen that the regulatory framework does not create incentives for investors/owners of such property to develop and utilize it in accordance with a common vision for long-term effective and sustainable development. These processes ensue from and are stimulated by the prolonged absence of higher level urban planning in Bulgaria. Unfortunately, this spells doom for the development measures adopted in the national and regional development plans and strategies.

### Acknowledgements

This paper is part of a research work carried out by the category of the settlement and  $C_{irr}$  stands for the coefficient for the possibilities for irrigation.

<sup>3</sup>  $F = C_{cal} \times C_{rl} \times C_{es} \times C_{irr}$ , where  $C_{cal}$  stands for the coefficient for the category of the agricultural land;  $C_{rl}$  stands for the coefficient for the required land;  $C_{es}$  stands for the coefficient for

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