

FIG Working Week 2014
Kuala Lumpur, Malaysia 16-21 June 2014

The contractualisation of urban rules, Dream or utopia?

Xavier Prigent – France



The contractualisation of urban rules

1st PART

Introduction

2nd PART

Cross-border approach:

- Germany,
- The Netherlands,
- Italy
- England

3rd PART

Synthesis chart

4th PART

Conclusion



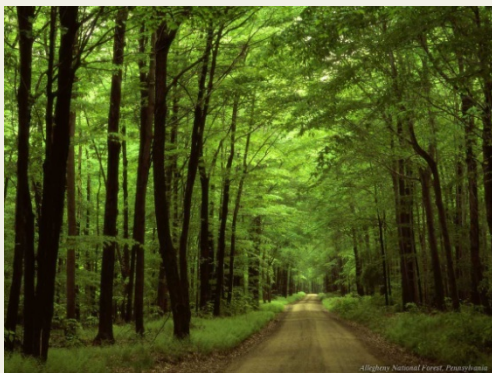
1st PART

INTRODUCTION



QUESTIONS

- When is contract used in planning law?
- A contractual engagement to adopt or modify planning rules?
- A contractual engagement to deliver planning authorization?
- Can building permits be delivered by contract?
- Can contracts be used to determine the payment of planning taxes?



2nd PART

CROSS-BORDER APPROACH



GERMANY

- Town-planning master plans are not only strategic



- Imperative balance sheet

- Equal balance between private and public interests
- Possible to take into account some private interests during the balance
- Allowances to adapt certain rules to reach a development

ITALY

Agreements to negotiate the administrative power



The Italian system agrees the substitution of a deed poll by a contractual engagement

Building permit follows the conclusion of an agreement

THE NETHERLANDS

Administrative authorities can oblige themselves to take certain decisions

- agreement
- To develop a certain project



The city council will do its best to give the permission needed and to defend the plan in administrative proceedings

Principle of reciprocity

ENGLAND

Any person interested in land may by agreement enter into a planning obligation

Balance between

- Private interests
- Impacts on the neighbourhood



Bilateral or unilateral agreement

The contract only comes into effect if planning permission is granted

The contract is supplemental

3rd PART

SYNTHESIS CHART



CONTRACTUALISATION OF URBAN RULES

GERMANY

no

SPAIN

no

GREECE

no

ITALY

no

THE NETHERLANDS

no

ENGLAND

no



NEGOTIATION OR ADAPTATION OF RULES FOR SPECIFIC PROJECT

GERMANY

Yes

SPAIN

no, in general

GREECE

no

ITALY

no, in general

THE NETHERLANDS

yes

ENGLAND

no



CONTRACT TO DELIVER AN AUTHORIZATION

GERMANY

Yes

SPAIN

no

GREECE

no

ITALY

no

THE NETHERLANDS

yes

ENGLAND

yes



AUTHORIZATION BY CONTRACT

GERMANY

Yes, theoretically

SPAIN

no

GREECE

no

ITALY

yes

THE NETHERLANDS

no

ENGLAND

no



CONTRACT'S ENFORCEMENT BY SPECIFIC REQUIREMENTS

GERMANY

Yes

SPAIN

unjustified

GREECE

unjustified

ITALY

yes

THE NETHERLANDS

yes

ENGLAND

no



INCURRING THE LIABILITY OF THE ADMINISTRATION

GERMANY

Yes

SPAIN

unjustified

GREECE

unjustified

ITALY

yes

THE NETHERLANDS

yes

ENGLAND

yes



4th PART

CONCLUSION



CONCLUSION

- Countries with Latin way of thinking
- Countries with Anglo-Saxon frame of mind
- Almost all of them use the contract to manage planning law in their legal system



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