



The Swiss land management regime and policy: *the right to own property vs the appropriate and economic use of the land.*

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Abstract

Land is the support of all human activities. Thus, the way in which land is used is a stake of primary importance, because it affects directly individual and collective human activities. Since societies developed differently, each country has produced its own land management regime and policy in order to achieve public interest objectives. Regarding the institution of property rights, some adopt an interventionist attitude while others are more liberal.

In Switzerland, the land management regime is marked by a liberal attitude towards the institution of property rights. The Swiss Federal Constitution in its article 26 states that: "The right to own property is guaranteed". However, the article 75 says: "The Confederation shall lay down principles on spatial planning. These principles shall be binding on the Cantons and serve to ensure the appropriate and economic use of the land and its properly ordered settlement". Under this arrangement, the authorities are required to take into account the interests of the private landowners when implementing their spatial planning policy (Rüegg, 2000). The associated Federal Law on Spatial Planning (LAT, 1989) clearly distinguishes buildable and unbuildable areas, and describes zoning categories within buildable areas. Considering this, the municipalities have to draw their own zoning plans.

A problem resulting from this is the gap between the way land is really used by the landowners and the way land should be used based on the zoning plan. Thus, zoning plans only describe how landowners can use their property, without any provision for handling cases where the use is not in accordance with the zoning plan. In particular, landowners may not be expropriated for such reasons. The Swiss planning system relies on other instruments to reduce the gap between the zoning plan and land use. One of these, which can be implemented in complex land management cases with many divergent interests, is the *Land Improvement Syndicate* (LI syndicate). This instrument can be used both in buildable areas as well as unbuildable areas in order to achieve land readjustment or a land development project. A LI syndicate is a public corporation, which includes all landowners affected by a land development project. Together, the landowners seek "to reorganize the land property to allow valuable development of the land, to equip their properties accordingly and to update the land rights according to the chosen development project" (Prélaz-Droux, 2008, p.54). This paper describes precisely this instrument and shows how it is implemented in the case of a periurban area.

References

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