



INTERNATIONAL ACADEMIC ASSOCIATION
ON PLANNING, LAW, AND PROPERTY RIGHTS
ANNUAL PLPR CONFERENCE 2018 IN NOVI SAD

MIGRATIONS – IMPACTS, LAW, AND SPATIAL PLANNING
Rectorate of the University of Novi Sad, 2018, February 19th – 23rd

**FLEXIBILITY IN REGULATORY PLANNING: THE FUNCTION OF PLAN
AMENDMENTS FROM A COMPARATIVE PERSPECTIVE**

Cygal Pellach, Technion - Israel Institute of Technology, Israel

Email: cygalp@campus.technion.ac.il

Contribution type: *PhD Workshop*

The literature on regulatory planning has long addressed the dual needs to provide flexibility to respond to changing conditions, on one hand, and legal certainty about development outcomes on the other (Mandelker, 1971). Recent works have highlighted the need for flexibility in planning, given that planners face complexity and uncertainty about the future (de Roo and Silva, 2010). How do planning bodies respond to these needs in practice?

Scholars have evaluated various planning systems in light of their inherent levels of flexibility or certainty (Booth, 1996; Janin Rivolin, 2008). Yet planning systems display a range of degrees of flexibility. Some (such as the UK system) allow a relatively high level of discretion by planning authorities, while other systems may be on the other extreme, based on rigid statutory plans that may not be amended for a prespecified number of years. The literature indicates that many planning systems fall somewhere in the middle of this range and that discretionary systems may include less discretionary practices, and vice-versa.

There are relatively few empirical studies dealing with specific tools which affect flexibility and certainty over time. Within that context, my research focus is on the regulatory function of plans and planning decisions. Amendments to plans, or related tools that planning law permits, can be distinguished into two categories: Those that increase development rights and thus land values, and those that seek to roll back previously granted development rights. The latter may then encounter the “compensation wall” in different degrees and manner, or might simply be politically unpopular. Alterman (2010) undertook a comprehensive cross-national study of the legal dimension of compensation rights for regulatory takings.

In this study, we will look at the full range of plan amendments and the legal, financial or policy-political constraints that they encounter in practice. We ask: How and to what degree is the need for flexibility accommodated? This question is addressed from a cross-national perspective in selected jurisdictions.

Keywords: flexibility, discretion, uncertainty, amendments