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Problems, policies, and research

Seismic risk and urban planning process: towards the integration
Risk, prevention and urban planning
Vulnerability analysis in the historic centre of Salò
The test on a town of average size: Forlì
The experimentation in the historical centres of San Piero and Santa Sofia
Urban vulnerability studies in Montone (Perugia)
The historic centre of Nafplion: urban vulnerability assessment
Systemic vulnerability and seismic risk in the historical town of Naples

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Projects and implementation

Vesuvius: risk or development? Safeguard and integration of the resources
A propulsive profile for the prevention and mitigation of natural risk
The strategies of planning of the National Park of the Vesuvius
Living with a volcano: the real risk lies in not having planning perspective
Representing Vesuvian territory
Decongestion and revitalisation: the OSP as opportunity for sustainable development
Procedure for the approval of the operative strategic plan (OSP) for the vesuvian area
The OSP juridical requirements
Awards to urbanism and prospective interventions. The two operative sides of the plan
Local development support policies
The OSP economic and financial approach
The OSP strategic environmental assessment
The plan of the Park of Vesuvius. The confrontation with a mutable and varied territory
A national park in a metropolitan context
On the analysis of environmental resources
Role and contents of the strategic projects
Landscape unit and structural systems. The regulative components of the plan

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Profiles and practices

The Structural plan for Dicomano 'bridging'
Towards the participatory construction of a Regional law on participation

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Paper houses: the new housing question
Houses at affordable prices: the evolution of social housing in Britain

Simonetta Armondi, Paola Briata

Evaluating territorial development projects, a modest unorthodox proposal

Graziella Tonon

Methods and tools

What's up-to-date in Cesare Chiodi's theories on city planning and what's not?

Luca Fondacci

The territorial responsibilities of Italian multiservice public utilities

Umberto Janin Rivolin

North-Western Platform: 'Sit-Ins' as tool for territorial governance

The OSP juridical requirements

Manlio Ingrassio

The attention of town planners is focussed on tools that can activate models and processes of extended governance of the territory aimed at overcoming the hierarchical-functional inflexibility of traditional urban and territorial planning.

The chances of success of these planning tools depend largely on the simple identification of competence and procedures, that is in short, the rules for their application.

The Operative Strategic Plan (OSP) governed by Regional law 21 of 10/12/2003 raises a series of problems for the jurist, the foremost being to ascertain the juridical nature. The two terms that combine to define the plan refer to concepts, i.e., strategic planning and operative planning, that appear different and in opposition.

In the OSP, the planning side and the operative aspects are closely linked. The Plan first identifies the strategic objectives of development and then the relative program for effecting them, and foresees continuous interactive activity involving all the participants in the territorial system and calling institution members to mediate and negotiate in complex legal matters.

The Regional law 21/2003 not only inhibits all new building for residential purposes in the territory of the 18 municipalities in the area of Vesuvius, it also foresees the start of a process of urban requalification, linked to the abandonment of the residential use. The OSP will address the determination and definition of installation areas to undergo intervention and works programs essentially to protect the territory, to

requalify and recover the environment and determine activities compatible with the existing values and the risk envisaged (in particular, production activity, tourism and tertiary activities). At the same time, the OSP must foresee the introduction of compensatory measures, i.e., official incentives, to favour the consensual relocation of part of the population and of the activities not compatible with the inherent risk, as part of the process of urban requalification.

Another problem linked to the two-fold vocation of the Plan is the definition of coordination relations with the local council planning. The OSP is an effective means of satisfying a prominent public interest that is above the local authority level and must therefore be an instrument that overrides general municipality planning, able to set the direction and the limits the latter must conform to. In view of the range of interests protected, the OSP can be considered a plan that regulates specific interests and activities, which, due to their super-municipality importance, have been entrusted ex lege to the Provincial Authorities.

Therefore, the contents of the OSP will also be binding in relation to local planning regulations, and the municipalities will adapt their town planning tools accordingly.

This new planning tool is permeated with delicate and slippery gnoseological and functional profiles which the jurist will have to contend with.