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The lonely path of the reformist town planning

Federico Oliva

Does it exist today in Italy a reformist town planning? It is a rhetorical question, since I consider myself a reformist town planner, committed to the town planning reform, who works on stubbornly reformist master plans based on public rules but which also consider the market and its requirements, necessarily in line with the present legislative framework, but also anticipating the reform. Master plans which, for these reasons, are not always appreciated by a front which nevertheless consider itself reformist.

Reformists in a minority

The first question intends above all to sound the consistency of the reformist option, committing itself on the three themes of the reform of the legislative framework, of the instruments and of the implementation model. That is, if such an option was or less suited to the commitment and if a marked ambiguity between innovative master plans and disciplinary roots actually prevailed, with the consequent difficulties in defining really shared and effective reference and action frames. An ambiguity that however has not affected the reasons of the plan, because if it is true that the governance of the territory can be entrusted to other instruments and procedures as well, these cannot anyway become a rule of the town planning action, as also the non-brilliant experience of the Italian de-regulation has highlighted. Master plans themselves point out the crisis of the reformist town planning: among all the new Rome master plan, the most advanced Italian

experience, partly diminished by the contradictions forced by the most radical local politics. And even if other experiences have highlighted such a crisis, the confirmation came from the debate in progress about the national and regional town planning reforms, in the new constitutional frame of the "concurrent" 2001 legislation State- Regions that assigns the State the sole responsibility of the "law of principles" on which the different regional laws will base themselves. The old regulations have been hanging on the master plans, sometimes lessened by the regional laws, closer to the reformist project, to such an extent that, to revert to the example of the Rome master plan, the many innovations have not prevented it from being still a master plan, that is a not completely effective instrument; moreover, without the much criticized choice of announcing some forecasts in advance, it would grant today very few effects on the city since the overall implementation is put off to who knows when. As a matter of fact, the first approval by the town council arrived after nearly 10 year work, the sole publication took eight months for including the thousands of amendments of the Town Council in the regulations, while answering the 4,200 remarks presented will take the whole 2004, plus the time required by the local politics and other months of work for the additional adjustment that the second approval will certainly entail. A plan the definitive approval of which by the Region will take besides a long indefinite time (years, not months), with the actual possibility of partial re-adoptions and relevant republications. A master plan that therefore will become executive many

years after its conception, when it will already be old and therefore ready to be replaced by a new one. In front of such mad procedures it appears incomprehensible the non-approval of the reform proposed by INU in 1995, as brilliant as it is simple and convincing. Really, those who committed indeed themselves to the reform are a minority, while in the majority old habits and not updated positions prevailed, that however guaranteed distinction, political and disciplinary visibility. So, just among the ranks of the centre-left alliance some essential points of the reform have been questioned, such as the new implementation model, while the expropriation was resurrected as if it was a credible alternative, when it was on the contrary only an ideological assertion.

Two fundamental knots to be solved

The inability of the reformist town planning to make itself understood, not so much by the experts but by those who suffer the connection with the plan in terms of not very understandable restrictions and choices, of advantages and penalizations, has worked as well against the approval of the reform. So, the two essential knots of the reform of the local master plan, the splitting of it into the Structural Plan and the Action Plan and the perequation and compensatory planning-implementation mechanism have been dealt with in an un-satisfactory way both in the regional laws and in the proposals of 'law of principles'. The question of the restrictions and of their withdrawal in fact can only be solved by a not restrictionist and not mandatory of the owners' rights structural Plan, while

the realization of the plan transformation forecasts can only be left, in the Action Plan (prescriptive and mandatory) to the perequation-compensation, as confirmed by a now more than twenty-year long constant jurisprudence. The other procedure and merit questions are by now largely accepted and therefore easily transferable in a reform, since they do not concern any longer the heart of the political and cultural confrontation.

Simplifying the regional laws

Beside the lack of a 'unitary exercise' of the matter (a precise indication of the constitutional jurisprudence) the real fault of all the new regional laws is the excessive detail: as a matter of fact, they are very complex texts where fundamental topics are treated, but also marginal ones, which risk to offer pretexts and quibbles to lawyers and, even worse, to give cynical politicians a valid and understandable excuses for promoting deregulation. Texts in which the same instruments are mentioned with the most varied names, that, far from evoking legitimate specific approaches, are an additional element of confusion and complications. All the new regional laws, finally, confirm by listing them, the traditional implementation instruments of the old master plan: a contradiction on the verge of a Freudian slip, that keeps an implementation instrument of a no longer existing general instrument alive, only because some of them, those of private enterprise, have worked rather well. Thus forgetting the role the ordinary negotiation instruments could have in the implementation of the Action Plan; the Integrated Programmes that have up

to now shown a remarkable efficiency and can be the real instrument of the town planning management, a not automatic but anyway consistent transition from the plan to the project. The deficiencies of the regional laws are attributable as well to the lack of the 'law of principles'. To make the most significant example, the 'co-operation' is usually put into effect in the 'Planning Conferences', an often wearying and almost useless procedure, which turns out in a standard provincial preliminary inquiry made on the spot, that the main subjects who should be planning together with Town Council, Province and Region (the health and the area authorities, the Superintendencies, the road national enterprise, the railways, etc.) do not attend, while they are although very prompt to ask for analytical examinations, as expensive as lacking of actual effects, do not take part in the European regulations of Strategic Environmental Evaluation, always reserve themselves to give successively their nullaosta to make that specific prevision impossible when they will have to attend to it. And this because there is not a State law which obliges these subjects, often of state level, to work together with the other government offices. The need for the simplification of the laws and therefore also of the plans is an essential element for the relaunching of the plan. The Structural Plan goes just this way, since the adjective structural was meant to point out the forecasts of it being programmatic, but also essential, not detailed. However, today's discipline uncertainties, the divisions, the only ideologically justified different points of view, lead to further complicate the regional laws

and therefore the plans, but also to make the principles themselves on which the 'territory management' should base itself according to the new constitutional choice little clear.

Stating in practice the principles for the territory management

Even more unsatisfactory are the proposals of 'law of principles' presented at the end of 2003; as a matter of fact an only text under discussion, which is the result of the unification of the text produced by the centre-right and that presented by a part of the centre-left. A text with many unsolved points and wide ambiguities, just with regard to the two afore-mentioned knots. The first one, the splitting of the local master plan is only indirectly dealt with when it is specified that it is the implementation acts which have a mandatory effect and therefore, in an implicit way, not the general ones; the second one, the perequative and compensating mechanism of town planning-implementation, is dealt with in a weak and still little explicit way. In the unified text the indication of the perequation as an identical treatment for areas having the same town planning and law characteristics is lacking. The result is disappointing: the implementation is entrusted to the perequation and the compensation model, but also to expropriation. If perequation enters explicitly into the regulations, it seems to do so by the back door, without being acknowledged as the standard mode for the town planning implementation and, above all, as *a priori* mode, by actually applying the equity principle; its full application would not only eliminate the discrimination between the favoured areas and the penalized areas by the master plan, but also

the distinction between public destinations and private destinations, sanctioning the decay of both upon the expiration of the Action Plan. More in general, one can remark how almost no principle among those mentioned in the bill is declined operatively, but the subsidiarity one, by now fully come into the town planning approval procedures in the regional laws; it is not so for the equity one, as we have seen, but not even the sustainability one, since in no text it is required, for instance, to aim to the reduction of sprawl; it is not so at last for the appropriateness one, that should out-line the town planning instruments and their characters more or less mandatory of the owners' rights and that, without encroaching on the province of the Regions, should guarantee that 'unitary exercise' required by the Constitution.

Master Plan, Environment and Environmentalists

The reformist town planning moves back also on the front of the ecological dimension of the plan. After ten year experimentation the integration between town planning and ecology has not established itself yet as a current practice for two reasons: the non-approval of the reform, that has not allowed the simplifications and the rationalization of the town planning system; the prevailing among environmentalists of an ambiguous attitude towards the plan, that favours the conservation and protection aspects compared to the transformation ones, even if aiming to improve the urban environment quality. An ambiguity regarding therefore the master plan as a project and that is also the consequence of the cultural and disciplinary corporativism of the

environmentalist world, which guards jealously its own provinces. Bringing forward the principle that the urban transformation as well may improve the ecological conditions of the town and that such an improvement may be evaluated in objective terms by a balance of the basic environmental resources, means putting forward the principle of urban sustainability itself, just based upon the regeneration and the conservation of those resources. The essential point in fact is not the contrast between safeguard and transformation, but the environmental balance of the transformation: that is, if the rules and the conditions that the master plan imposes to the urban transformation improve positively the starting environmental conditions, measured upon the quality of the basic environmental resources air, water and ground. Should the balance of the transformation be positive, not only this one is possible but it is also useful to the environmental objectives and the master plan, which is always a project for the future, must guarantee its feasibility. Also this aspect is a theme of confrontation in the reformist front: in Rome, to make and other example. The environmentalists have not accepted the compensating acquisition of the areas for public parks and gardens and services in the part of the town less provided with parks and gardens; a position justified by the refusal to allow a minimum permit of building in return for the free of charge acquisition of more than 1,600 hectares of areas destined for parks and gardens, which has put forward one of the basis of the reform, condemning a third of the Roman citizens to live worse, without parks

and gardens and the effects that they produce on the urban environment. But the environmentalists underestimate also the compared values of oxygen production, carbon dioxide absorption and water evapotranspiration of a ground with meadows-trees compared with the same ground utilized for agricultural uses, values which highlight blatantly the advantages of the compensating acquisition in comparison with the inapplicable expropriation bound.

The difficulties of the master plan

Making master plans is therefore more and more difficult; because of political reasons, of the real and instrumental divisions of the reformist front, and because of the inefficacy of the old model that makes the effort of the town planning almost useless. But also because of the weight of the left-over forecasts of the old master plans to be modified, the confirmation of which would distort the new plans, but the refusal of which would make them useless because of the legal disputes.

These difficulties do not relieve the reformist town planning of updating its knowledge and its 'toolbox'. Learning to distinguish the new forms of the urban rent, in order to understand that they can be countered more easily by the perequative approach than by the expropriation one; investigating the present characters of the property market which make a good part of the traditional instruments of town planning obsolete; knowing the effect of an ecologically conditioned transformation compared to a simple safeguard and conservation policy, knowing at last to estimate the urban and environmental charges of any transformation in order

to propose bearable transformations. But also proposing master plans that get ahead of the zoning in favour of a greater functional integration; plans which eliminate the difference between public and private destinations; plans which connect indivisibly transformation and mobility, plans which face up the theme of the revitalisation and upgrading of the historical heritage not only in terms of conservation but also of replacement, when this turns out to be convenient and necessary. An updating that too many technicians refuse, being content with knowing by now obsolete strategies, thus producing often ineffective when not wrong or anyway unnecessarily complicated master plans.

While thinking over just this, I had an other look to the 1993 Berlin town plan, the one of the reunified capital. The most striking and best known transformation of that plan, Postdamer Platz, that is the new centre of the capital, is simply indicated by a bipartite green-red field included in a perimeter and by symbols meaning "Special zone for the Capital functions"; while as light on the paper as it is heavy in the reality is the layout of the infrastructural system which innervates that transformation and makes it admirably accessible. Personally, I always considered that master plan the ideal prototype of the Structural Plan which is establishing itself with so much difficulty. And one cannot certainly say that Postdamer Platz is not planned, that its form and its layout are not the effects of the public rules of its many plans.

The difference between the Italian town planning and that of the West Europe is remarkable, not so much for the formal quality of the plans, as for the issues they

produce and which are basically due to the management deficiencies. Even if the two main knots of the plan will be solved by the 'law of principles' and there-fore it will not be difficult for the Regions to propose laws which allow the drawing up of effective Structural General Master plans and of Action Plans, the Italian town planning will still be far from really satisfactory results. If it does not increase the capacity of urban management required just by the flexibility of the new instruments. The walk of the reformist town planning is therefore still very long and difficult, but there are no alternatives, on pain of putting aside any fanciful ambition of really governing the town and the territory in the interest of the relevant communities.