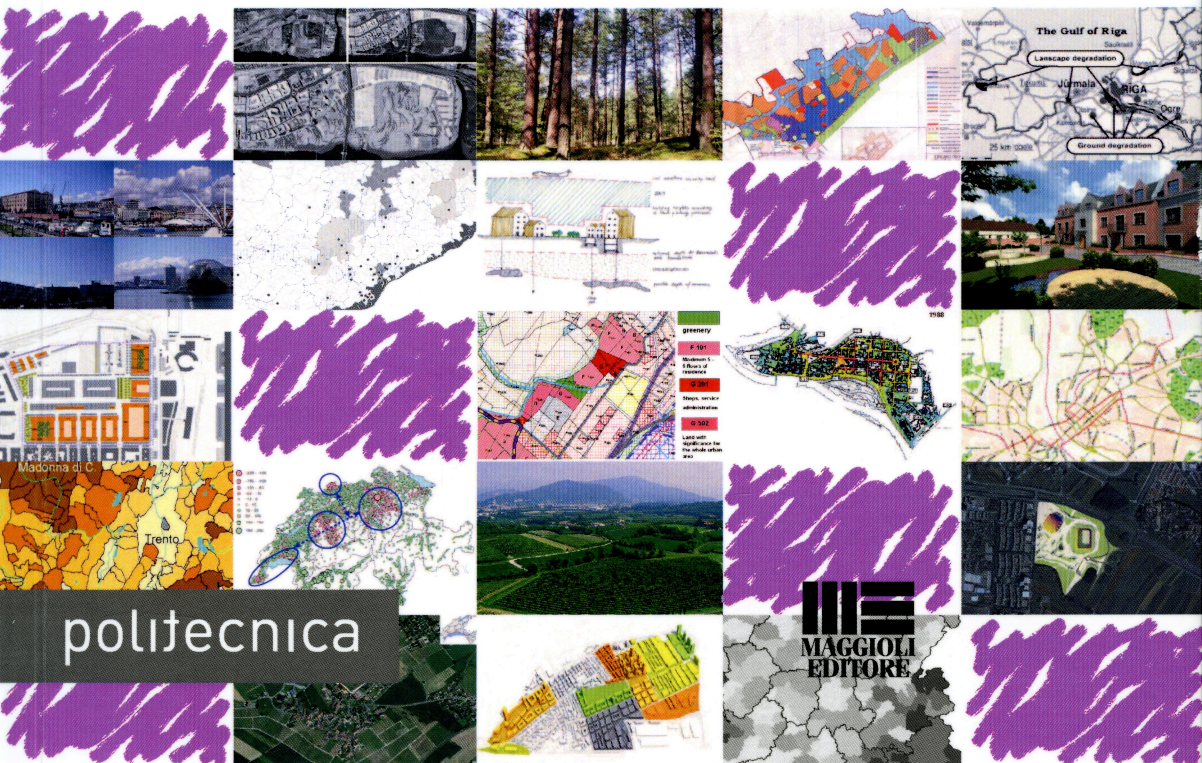


# Land Management for Urban Dynamics

## Innovative methods and practices in a changing Europe

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## Urban renewal through a location-specific way to streamline procedures: the Walloon tool of “urban remembrement”<sup>101</sup>

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### 1 Introduction

The Walloon Government, which has responsibility for planning matters in Wallonia<sup>102</sup>, has recently conceived the tool “Urban Remembrement” (UR). Literally, the French word “*remembrement*” should be translated into “land readjustment”. However, in the investigated context, “Urban Remembrement” is not actually related to reallocation of land. UR is in fact a location-specific way to streamline planning procedures, reduce time delay in the development process and also limit the risk to block development because of administrative procedures.

The final aim of the UR tool is to facilitate urban regeneration. In Wallonia, urban regeneration is a more and more important objective for the regional authorities (Fraser and Maréchal, 2003). It is in this perspective that the tool has been developed, so as to avoid complex procedures to developers active on brownfield sites. The key objective is therefore to retain in central areas property investments that could be attracted out-of-town on greenfields, where developments are less risky and usually more profitable (Halleux and Lambotte, 2008).

The aim of this paper is to summarise our investigations on this new tool. In the first part of the paper, we briefly synthesise the theoretical framework of transaction cost. In the following sections, we explain how “Urban Remembrement” has been conceived and how it has been appropriated by planning and property professionals. Our results tend to show that the goals of streamlining procedures, reducing planning delays and simplifying urban regeneration are not really working as intended.

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<sup>101</sup> The present paper has been realized on the basis of Lejeune et al. (2010) and Marique et al. (2009). The initial research was undertaken within the framework of the Conférence Permanente du Développement Territorial (CPDT). The CPDT is an inter-University centre (ULg - University of Liege, UCL - Université catholique de Louvain and ULB – Université Libre de Bruxelles) financed by the Walloon Region to carry out research on territorial development.

<sup>102</sup> With Flanders and Brussels-Capital, Wallonia (formerly the Walloon Region) is one of the three official regions of Belgium. With a surface area of  $\pm 16,844$  km<sup>2</sup>, Wallonia represents more than 55% of the Belgian territory. Inhabited by 3 475 500 people in 2009, i.e. about a third of the Belgian population, it has a population density of  $\pm 200$  inhabitants/km<sup>2</sup>.



## 2 Transaction costs and the development of property projects

Although the issue of transaction cost has been neglected for a long time by planning and property research, recent developments of the new institutional economics have shown its importance for the production of our built environment (Buitelaar, 2004 and 2007). These developments support the argument that the costs of land and property developments are not limited to the costs of physical production, as assumed in many neo-classical models built on assumptions such as perfect rationality and complete information. In addition to physical production costs, it is indeed necessary to add the costs for the reduction of uncertainty and for the coordination of operations, i.e. transaction costs.

Institutional economics usually makes the difference between the three coordinating mechanisms of prices, imposed rules and trust (or cooperation). In terms of governance structure, those coordinating mechanisms can be related to the three ideal models of market, hierarchy and network (or partnership) (Thompson et al., 1991; Needham, 2006). When it relates to the market governance structure, price is the coordinating mechanism. Price being considered as the sole coordination mechanism, suppliers and demanders are supposed to be perfectly independent and indifferent from each other's identity. We are back here with the assumptions of the neo-classical perspective (Needham and de Kam, 2004). By contrast, in the hierarchical form of governance, state agencies impose their regulations. It concerns the extent to which individual property owners have to accept limitations of their rights so that to achieve collectively desired land-uses. Building regulations, zoning plans or expropriations are examples of regulatory planning instruments. As illustrated by the case of compulsory purchase, the hierarchical form of governance does not exclude a price being paid, but excludes, in this conceptual perspective, that the price is the coordinating mechanism. A price can also be paid in the context of a hybrid-network form of governance, where coordination is based on mutual trust and where the parties have interdependent rather than perfectly dependent or perfectly independent forms of relations.

As regards property development, transaction costs include the costs of acquiring information (analysis of prices, technical studies on the production costs, investigations on the characteristics of the potential demand...), the costs related to the follow-up of the administrative procedures and also the costs related to consultations and negotiations between planning actors and development partners. The preparation of planning documents has also to be considered to identify all the transaction costs related to a property development. Public authorities assume therefore a substantial part of it when they define and precise investment modalities through their planning devices.

In the field of planning, there is no doubt that the recent past has seen an important increase in transaction costs. This trend has to be connected to general tendencies towards the growing participation of citizens as well as towards new requirements for environmental assessments. The expansion of urban sprawl is also an important source of increasing transactions costs, as it accentuates risks of conflicts (nimby)

and negative externalities of all natures. In parallel, public authorities have reacted with initiatives to cut rules and streamline procedures, in order to foster investments and reinforce economic competitiveness of their jurisdictions. These contradictory general tendencies, observed in many countries and contexts, seem particularly marked in Wallonia, as illustrated by the creation of “Urban Remembrement”. We will see below that UR is indeed a rather radical way to streamline planning procedures. In this perspective, investigations on this new tool shed light on the key debate on regulation and deregulation for land-use planning.

### 3 Perimeter of “urban remembrement”

“Urban remembrement” was introduced in June 2006 in the Regional Planning Act (CWATUPE <sup>103</sup>). The UR procedure can be applied “*for any project of urban regeneration which includes the development of urban functions where it is necessary to create, modify, enlarge, suppress or overhang public highways or public spaces*” (CWATUPE, art. 127) <sup>104</sup>.

The implementation of UR requires the adoption by the Walloon Government of a perimeter delineating the considered regeneration scheme. In theory, the official procedure to adopt such “*perimeter of “urban remembrement”*” should not last more than twenty weeks. The proposal to adopt a perimeter can emanate from the regional authorities (the regional government or the regional administration) as well as from the municipal authorities. The adoption of a perimeter aims to deliver building permits as quickly as possible. In concrete terms, the adoption induces two radical consequences for the delineated area:

- all the former location-specific planning regulations are suppressed;
- the municipality loses its prerogative inside the perimeter and the Walloon Region (the minister in charge of planning or the regional administration) becomes the only competent authority to accept developments and deliver building permits.

In Wallonia, two political levels are competent in the domain of urban planning: the regional level and the municipal level <sup>105</sup>. As most of the building permissions have to be approved by the two levels, the fact that the municipal level loses its prerogative allows to reduce handling time.

The planning regulations which are not applicable anymore after the adoption of an UR perimeter mainly concerns two tools: the zoning plan (called sector plan or “*Plan de secteur*” in French) and the local plan (called design municipal plan or

<sup>103</sup> Code Wallon de l’Aménagement du Territoire, de l’Urbanisme, du Patrimoine et de l’Energie. In Belgium, regional assemblies share legislative power equally with the federal level.

<sup>104</sup> There are 262 municipalities in Wallonia. They represent on average 64 km<sup>2</sup> and 12.700 inhabitants (data from 2008).

<sup>105</sup> «Tout projet d’urbanisme de requalification et de développement de fonctions urbaines qui nécessite la création, la modification, l’élargissement, la suppression ou le surplomb de la voirie par terre et d’espaces publics».



“*Plan communal d’aménagement - PCA*” in French). They both precise the authorised land uses. While the zoning plan imposes general land uses, the local plan is more precisely focused. In Wallonia, both tools have given rise to a number of criticisms due to the length of their revision procedures. For example, a recent investigation showed that the average time taken to revise a local plan (PCA) is three years and a half (Marique et al., 2009, p. 45). There is no doubt that this inflexibility has pleaded in favour of the creation of a new tool such as UR.

To date, five UR perimeters have been adopted and ten other projects are at the stage of preliminary discussions. As table 1 indicates, the contents of the five adopted perimeters are particularly variable.

*Table 1 - The approved UR perimeters (December 2009)*

<b>Site</b>	<b>Surface area</b>	<b>Key features</b>	<b>Main justification</b>
Guillemins, Liège	21 hectares	New public spaces, 100.000m <sup>2</sup> of office floor space, 10.000 m <sup>2</sup> of restaurants and cafés, 400 to 500 housings and few retail units	To define investment possibilities for private developers To use a more flexible tool than the local plan
Droixhe, Liège	22 hectares	Regeneration of a public housing estate of 21 hectares	To attract a private partner to develop a PPP for the whole area To use a more flexible tool than the local plan
Motte-Aqualys, Mouscron	4 hectares	230 housings, 6.000 to 10.000 m <sup>2</sup> of office floor space et few retail units	To change the zoning plan so as to allow residential developments in an industrial zone
Bellecourt, Manage	20 hectares	290 new houses, 30 new flats	To use a more flexible tool than the local plan
Orp-Le-Petit	4,5 hectares	150 to 180 new housings in the centre of a small town, few retail units	To use a more flexible tool than the local plan

Although UR is not yet in a mature state, the first analyses on this tool provide evidences on how it is difficult to compress transaction costs in urban regeneration process. In particular, the investigations on the five approved perimeters lead to underline the importance of the negotiations before the official delineation procedure. This result tends to relativize the speed of the panning instrument, although considered as its major strength by both, the Walloon authorities and the property industry. These negotiations are characterized by a triangulation between the municipality, the Walloon Region and the private developers. It is thus before the beginning of the official administrative procedure that these actors agree on a common vision for the project, so as to secure it before launching the official procedures.

For the analysed projects, the negotiations between partners were notably dealing with the tool “Remembrement Urbain” itself. This situation shows that the abandon of traditional forms of control can induce adaptation costs (Booth, 2009, p. 157). UR is largely open to interpretation due to both, the absence of jurisprudence and the lack of clear guidelines concerning the procedure. Indeed, the government has chosen to be as flexible as possible and decided that it is on a case-by-case basis that the competent authorities must decide on the informations required to adopt a perimeter (notably concerning the detail level of the plans describing the regeneration scheme).

Another important problem concerns the organisation of both, citizen participation and environmental assessments. Key stakeholders related to the different investigated projects were complaining about the opacity on those subjects. For them, there is a significant risk of appeals, in suspension or in cancellation, concerning the adoption of perimeters as well as concerning the building permissions that should follow them. For instance, neighbours of the project to be developed in Orp-Le-Petit have already registered a series of appeals to the Council of State, which did not decide yet at the time of writing.

#### 4 The modes of appropriation of UR

The vagueness of the definition of UR has currently led to two major modes of appropriation. We distinguish, first, an “opportunity taking strategy”, where a private developer aiming to develop a precise project approach public authorities over the adoption of a perimeter. This first mode of appropriation is in line with the initial intentions of the regional authorities and the philosophy behind the creation of UR. The opportunity taking strategy can be opposed to a second mode of appropriation, when local authorities, in total independence vis-à-vis the potential private developers, follow a “proactive strategy”, with an in-depth reflexion aiming to define a framework so as to guide further interventions of developers. With this second strategy, UR is used as a “strategic master plan”.

These two modes of appropriations lead to different planning delays. The first strategy, linked to a precise private project, can be conducted more rapidly than the second. For instance, in Mouscron, the private developer has been working and consulting local and regional authorities for two years before launching the official procedure aiming to implement a perimeter<sup>106</sup>. By contrast, in Liege, the municipality has used the UR tool so as to carry on its strategic reflection on both, the Guillemins and the Droxhe areas. In both cases, the areas to be regenerated are subject to debate since the eighties.

By definition, developments within UR perimeters can be authorized without being in accordance with regulations prepared in advance, such as zoning plan or local plan. For projects related to an opportunity taking strategy, the central aspect of the

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<sup>106</sup> This project is currently abandoned by the developer but another one is currently in preparation.



tripartite negotiations between private developers, municipal authorities and regional authorities therefore concern what should be developed inside the perimeter. In terms of coordinating mechanisms, what we see here is the growing importance of cooperation at the expense of imposed rules. Instead of simply imposing their rules, public authorities use UR to organise a framework for dialogue and action. Even though, for a developer seeking to develop his project, the possibility to avoid former location-specific planning regulations can only be achieved if the proposed scheme meets the objectives of both, the municipal and the regional authorities. Indeed, both levels can refuse the adoption of the perimeter if the intentions of the developer do not suit them. Similarly, municipal officials which initiate a proactive strategy have to avoid conflicts with the regional authorities. It is important to point out here that the adoption of a RU perimeter must, at the end of the procedure, be approved by the Regional government.

As mentioned above, the official procedure to adopt a perimeter of “urban remembrement” should not, in theory, last more than twenty weeks. As showed in Table 2, the actual time delays registered for the five approved perimeters were significantly longer. In the case of projects that relate to the “proactive strategy”, an important extension of time was required by the request for additional information. Indeed, the approach deviated significantly from the vision that had accompanied the development of the instrument by the Walloon government. In the case of projects that relate to the "opportunity taking strategy", the extensions were less important, but new information had also to be integrated as the tripartite negotiations that preceded the official procedures were not able to address every concern.

*Table 2 - Time delays registered for the approval of UR perimeters*

	<b>Guillemins</b>	<b>Droixhe</b>	<b>Mouscron</b>	<b>Bellecourt (Manage)</b>	<b>Orp-le-Petit</b>
<b>Positive decision from the municipality</b>	10 weeks	8 weeks	5 weeks	6 weeks	weeks
<b>Positive decision from the regional administration</b>	5 weeks	6 weeks	5 weeks	33 weeks	10 weeks
<b><i>Subtotal</i></b>	15 weeks	14 weeks	10 weeks	39 weeks	17 weeks
<b>Positive decision from the Walloon government</b>	23 weeks	27 weeks	16 weeks	12 weeks	6 weeks
<b><i>Total</i></b>	38 weeks	41 weeks	26 weeks	51 weeks	23 weeks

## 5 Conclusion: are development costs and transaction costs incompressible?

The Walloon experience of UR tends to illustrate the limits of planning instruments designed to simplify and shorten procedures. Although this conclusion should be re-evaluated when the analysed tool will have reached its mature state, our investigations tend to show that the period necessary to achieve an urban development project seems inevitably related to its complexity. Our analysis actually correlates with the conclusions of Glasson and Booth (1992) when they observe that shortening delays in planning procedure is not sufficient to accelerate the entire process of development. In this perspective, a main conclusion relates to the fact that the limitation of transaction costs associated with administrative procedures actually induces higher transaction costs at other times of the development process. In particular, the investigations on the five approved perimeters lead to underline the importance of the pre-application negotiations before the official delineation procedure. Our analysis also showed that to simplify administrative procedures through new planning instruments actually lead to increase complexity, due to the creation of adaptation costs induced by the new tool.

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