

# Implementing Spatial Conformity in Land Services: Does Planning Work?

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## Abstract

The government has declared that national development is carried out in a planned, comprehensive, integrated, directed, gradual, and sustainable manner by developing spatial planning in a dynamic environmental system while maintaining environmental sustainability. Spatial planning is part of national development based on a balance between various interests. This research is socio-juridical. It was conducted in North Sulawesi Province as a research location based on the reality of the many spatial problems in this area. The results of the research indicated that in realizing legal certainty in the application of the conformity of space utilization activities to land services are the first, the application of laws and regulations will be optimal if supported by adequate facilities and infrastructure. The second, the involvement of several agencies using information technology will greatly determine the smooth implementation of spatial planning activities. To be able to create optimal services, all relevant agencies must have equal standards in the use of information technology. The third, the application of laws and regulations needs to begin with socialization to provide understanding to all parties concerned so that there are no differences in perceptions in services, and the fourth, it is necessary to test the application of laws and regulations so that weaknesses can be identified so that appropriate reforms that can reduce or eliminate ambiguity in legal substance.

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## 1. Introduction

The implementation of spatial planning is intended to integrate various cross-sectoral, cross-regional, and cross-stakeholder interests which are manifested in the preparation of Spatial Plans, harmonizing between spatial structures and spatial patterns, harmonizing human life with the environment, realizing a balance of growth and development between regions. Creating conditions of legislation in the field of spatial planning that support the investment climate and ease of doing business.<sup>1</sup>

A breakthrough in government regulations today is the Spatial Planning (RTR- *Rencana Tata Ruang*) as the basis for KKPR and as basis for licensing whose position is upstream so that RTR is a *single reference* in the field.<sup>2</sup> KKPR assesses the conformity of the spatial use activity plan with the applicable spatial plan and it functions as a reference for space utilization and for land administration. Through KKPR, ease of licensing can be realized with confirmation, approval, and recommendations. For regions that already have a Detailed Spatial Planning (RDTR -*Rencana Detail Tata Ruang*), business and non-business actors can use KKPR confirmation, but for regions that do not yet have an RDTR can use KKPR Approval.<sup>3</sup>

Based on Article 3 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 13 of 2021 concerning the Implementation of the Conformity of Spatial Utilization Activities and Synchronization of Spatial Utilization Programs (Permen ATRBPN 13/2021), the types of KKPR are divided into 3 (three) types, namely KKPR for business activities, for non-business, and for activities of a national strategic nature and these three types are then also integrated with various land registration service activities at the Land Office, for example in service activities for land use changes, land rights reduction activities, land rights issuance activities.

The existence of Presidential Regulation No. 21 of 2018 and after the issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 13 of 2021 concerning the Implementation of the Conformity of Spatial Utilization Activities and the Synchronization of Spatial Utilization Programs led to changes in the mechanism of land services at the Land Office, among others in the requirements of the previous location permit consists of two types, namely location permits with commitments and without commitments. After the issuance of this mechanism, a problem that then arose in the land service

<sup>1</sup> Korah, Prosper Issahaku, Patrick Brandful Cobbinah, and Abraham Marshall Nunbogu. "Spatial planning in Ghana: Exploring the contradictions." *Planning practice & research* 32, no. 4 (2017): 361-384.

<sup>2</sup> Kusmiarto, Kusmiarto, Trias Aditya, Djurdjani Djurdjani, and Subaryono Subaryono. "Digital transformation of land services in Indonesia: A Readiness Assessment." *Land* 10, no. 2 (2021): 120.

<sup>3</sup><https://www.indonesiapropertiexpo.com/news/dirjen-tata-ruang-kementerian-atrbpn-pastikan-kkpr-bisa-segera-berjalan>

was the application for land rights that had been submitted to the Land Office before the enactment of the above rules because the system and application could no longer accommodate the old mechanism, causing delays in the completion of rights registration activities for lands.<sup>1</sup>

This research is very important to find out the application of the conformity of space utilization activities to land services registered before the enactment of Presidential Regulation No. 21 of 2021 and the efforts that can be made to realize legal certainty in the application of the suitability of space utilization activities to land services.

## 2. Method of Research

This research uses a descriptive method is a method that examines the status of human groups, an object and a condition, a system of thought or an event in the present. The purpose of descriptive research is to provide a systematic, factual and accurate description of the facts, nature and relationships between the phenomena studied. So, this type of research is socio-juridical. It was conducted in North Sulawesi Province as a research location based on the reality of the many spatial problems in this area. To analyze the data obtained in this study, it was further processed and analyzed through qualitative analysis. This analysis is carried out using a theoretical basis as an analytical tool in explaining the phenomena that are the focus of this research.

## 3. Application of the Conformity of Space Utilization Activities for Land Services

In addition to degrading the availability of space, the use of space that is not in accordance with its designation can cause damage and loss of environmental balance that causes adverse impacts, including natural disasters such as floods, erosion, and landslides. Exploitation of the environment on a large scale and pollution can become an unavoidable habit of society. Damage to the environmental balance also causes a decrease in the quality and quantity of the natural resources contained as well as a decrease in the function of an area. In addition, overlapping use of space can cause problems that can become disputes for rights holders or other interested parties.<sup>2</sup>

The government plays a more role in providing convenience and assistance to the community through the implementation of area-based spatial planning in order to prevent violations of space utilization, so that it is a functional unit in the form of physical spatial planning, economic life, and socio-culture that is able to ensure environmental sustainability in accordance with the spirit of democracy, local autonomy, and openness in the life of society, nation and state. In addition, the Government makes an instrument of spatial order which is carried out systematically based on Article 1 No. 15 of Act No. 26 of 2007 concerning Spatial Planning which provides a regulation that controlling the use of space is an effort made to realize spatial order. In this law, it is emphasized that there are 4 (four) instruments for controlling the use of space that can be carried out by the Government, namely the establishment of zoning regulations, licensing, providing incentives and disincentives, and imposing sanctions.<sup>3</sup>

The government has declared that national development is carried out in a planned, comprehensive, integrated, directed, gradual, and sustainable manner by developing spatial planning in a dynamic environmental system while maintaining environmental sustainability. Spatial planning is part of national development based on a balance between various interests, namely balance, harmony, and harmony between the interests of the world and the hereafter, material and spiritual, soul and body as well as individuals and society.

One focus of the institution that has an important role in spatial planning is the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency as can be seen in the Strategic Plan of the Ministry of Agrarian and Spatial Planning which mentions issues of controlling space utilization that are currently developing, including:

- a. The rise of space utilization activities that are not in accordance with spatial planning plans and statutory regulations, such as illegal land use changes, space utilization activities that are not in accordance with space utilization permits, and space utilization permits that are not in accordance with statutory regulations.
- b. The basic instruments or rules in the supervision and control of space utilization are not yet complete as the basis for the implementation of the supervision and control of space utilization. This causes the activities of monitoring and controlling the use of space can not be carried out optimally, both by the central government and local governments. For example, there is no regulation on how to conduct monitoring, evaluation, and reporting, and there is no setting for determining criteria for specific problems. In the drafting process, it is strived for spatial planning rules or norms to be able to meet the

<sup>1</sup> Palilingan, Toar Neman, Donna Okthalia Setiabudhi, and Toar KR Palilingan. "Environmental policy, public health and human rights: Assessing the regional regulation on waste." *Hasanuddin Law Review* 4, no. 3 (2019): 339-347.

<sup>2</sup> Li, Guan, Liping Wang, Cifang Wu, Zhongguo Xu, Yuefei Zhuo, and Xiaoqiang Shen. "Spatial Planning Implementation Effectiveness: Review and Research Prospects." *Land* 11, no. 8 (2022): 1279.

<sup>3</sup> Dianto, Rahmawan, and Irma Cahyaningtyas. "Administrative Law Enforcement against Urban Spatial Planning Based on the Spatial Planning Law." *International Journal of Social Science and Human Research* 4, no. 05 (2021): 1174-1179.

basic needs of the community and satisfy the parties, therefore the spatial planning rules/norms will be formulated precisely and clearly so as not to cause different interpretations.

- c. There is still no structured agency for monitoring and controlling the use of space. To be able to realize an adaptive and accountable ministry organization and ensure that the responsibilities assigned can be carried out properly, organizational conditions are needed that can support the achievement of land and space for the greatest prosperity of the people. For this reason, identification is carried out in the form of a map of strengths and opportunities as well as weaknesses and threats in the ministry organization, especially after combining the land register with land use.

The role of Land Technical Considerations as an instrument for controlling the use of land can be seen in the process of Granting Location Permits and Land Use Change Permits, where Land Technical Considerations are the main requirement in obtaining Land Use Change Permits and Location Permits, this is because in the Minutes of Land Technical Considerations there are technical studies concerning Land Use and Technical Assessment of Land Availability, in addition to regions that do not yet have a Regional Regulation on Regional Spatial Planning, the minutes of technical considerations on land are one of the instruments for controlling the use of space which has legal standing aspect.

#### 4. Comparison of Space Utilization Control pre- and post-enforcement of the Job Creation Law

Location permit is a permit required by business actors to be able to obtain land/areas used to do business activities. However, through the Presidential Regulation No. 21 of 2021 concerning the Implementation of Spatial Planning which is a derivative regulation of the Job Creation Law, the government introduces a new instrument, namely the Conformity of Spatial Utilization Activities.

Prior to the issuance of the Job Creation Law, the implementation of business activities used a permit approach where all business activities had to have a permit and there were no standards set by the government for conducting a business.<sup>1</sup> With the existence of the Job Creation Law, there is a change in the conception of business activities from permit-based to the application of risk-based standards in which permits are only for activities that have a high risk. Business activities with medium risk use standards, while business activities with low risk only register.

**Table 1.** Differences in spatial arrangement pre- and post-Job Creation Law

No.	Pre-Job Creation Law	Post-Job Creation Law
1.	RTR products are only owned and stored by the Government in physical form (hard copy), so that spatial planning seems to hinder investment. There is not really a system that accommodates permits in an integrated manner.	RTR products have been published by the Government through various platforms.
2.	The process of issuing permits in business is more complicated and does not show transparency because it has not been carried out online and in an integrated manner	Communities and related parties can take advantage of online RTR information.
3.	The number of cases of overlapping the use of space	Platform of RTR product is connected to the licensing service portal, so that the business and non-business permit process becomes faster and more transparent

Nowadays, spatial planning is very important to be used as a reference for the implementation of development, licensing, investment and also to be a savior of the environment, however, so far there have been conditions and obstacles faced so that they are not optimal. For this reason, the Indonesian government last year made a breakthrough with the issuance of Act No. 11 of 2020 concerning Job Creation Law as an answer to problems regarding licensing to existing regulations. The Job Creation Law has made several amendments to Act No. 26 of 2007 which is a total of 38 articles amended, abolished or added. The government's drafting and enactment of the Job Creation Law some time ago had several effects on various sectors in Indonesia, one of which is the spatial planning sector. This also prompted the government to issue Government Regulation No. 21 of 2021 concerning the Implementation of Spatial Planning as a mandate from the provisions stipulated in the Job Creation Law.

In the Presidential Regulation No. 21 of 2021 it is stated that the implementation of spatial planning is intended to integrate various interests across sectors, regions, and stakeholders which are manifested in the preparation of Spatial Plans, harmonizing spatial structures and spatial patterns, harmonizing human life with the

<sup>1</sup> Gunawan, Adi, Adriana Pakendek, Win Yuli Wardani, Sri Sulastri, and Achmad Taufik. "Indonesian Spatial Planning After the Enactment of the Job Creation Law as a Formulation Effort Towards the Society Era 5.0." *International Journal of Science and Society* 4, no. 2 (2022): 16-26.

environment, embodiment the balance of growth and development between regions,<sup>1</sup> as well as the creation of conditions for legislation in the field of spatial planning that support the investment climate and ease of doing business.

The findings of research show that 12 (twelve) respondents from the National Land Agency, Regional Government and Business Actors know and understand land services related to spatial planning. Knowing in this case is about changes in regulations regarding spatial planning in land registration and understanding well the changes in the mechanism after the enactment of the Job Creation Law. Furthermore, 18 (eighteen) respondents or 60 (sixty) percent of respondents are aware of changes but do not understand these changes well and there are no respondents who are not aware of changes in land services related to spatial planning.

In the event that there is a view that the new mechanism for land services related to spatial planning does not provide convenience, the Head of the Land Management and Empowerment Section of the Manado City Land Office stated that basically the current mechanism is much easier because it is integrated between all related sectors so that minimize the risk in the issuance of spatial planning documents and if there are still business actors who say it is more difficult then this is basically because this rule is still new and has not been optimally disseminated to all *stakeholders*. Another factor is the availability of facilities and infrastructure related to the use of information technology in its application, such as computers, internet networks and human resource capabilities.

The application of new rules in land services related to spatial planning still creates uncertainty for business actors due to differences in the understanding of the implementers regarding the new rules which have an impact on the emergence of difficulties for business actors. Some of the problems referred to be that there is no clarity regarding the status of location permits which have not expired when the new rules are enacted.<sup>2</sup> The secondly, the use of information technology has not made it easy because at the time business actors have registered through Online Single Submission. The third, the understanding of the Land Office apparatus is not yet optimal in carrying out inputs so that several cases of business actors having to re- register while payments to the state have been carried out have resulted in material losses to business actors.

In relation with these problems, it is necessary to make efforts by all stakeholders to provide legal certainty for business actors in land services related to spatial planning, namely the application of laws and regulations will be optimal if supported by adequate facilities and infrastructure. The involvement of several agencies using information technology, of course, greatly determines the smooth implementation of spatial planning activities. To be able to create optimal services, all relevant agencies must have equal standards in the use of information technology. The implementation of laws and regulations needs to be initiated with socialization to provide understanding to all relevant parties so that there are no differences in perceptions in services.

## 5. Conclusion

Efforts that can be made to realize legal certainty in the application of the conformity of space utilization activities to land services are the first, the application of laws and regulations will be optimal if supported by adequate facilities and infrastructure. The second, the involvement of several agencies using information technology will greatly determine the smooth implementation of spatial planning activities. To be able to create optimal services, all relevant agencies must have equal standards in the use of information technology. The third, the application of laws and regulations needs to begin with socialization to provide understanding to all parties concerned so that there are no differences in perceptions in services, and the fourth, it is necessary to test the application of laws and regulations, hence the weaknesses can be identified so that appropriate reforms that can reduce or eliminate ambiguity in legal substance.

## Declaration of Interest

Authors declare there are no competing interests in this research and publication.

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