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The master plans: what comes next ? Questions about the future of urban development in Brussels

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The master plan was designed in the framework of the 2002 Regional Development Plan (RDP) as the preferred tool for the development of the fourteen 'areas of regional interest'. The plan thus made a triple promise: better coordination of public action, effective public/private partnerships (PPPs) and true democratic participation. The tool was implemented for the first time during the last regional legislature, and is evaluated here based on an empirical study of several cases including the emblematic case of the state administrative district, as well as an afternoon meeting to discuss the results. The authors feel that the administrative complexity, the opposing interests of the public and private sectors, and the difficulty to establish true participation on behalf of inhabitants jeopardise the efficiency of a tool which – when all is said and done – is not binding. But they do not confine themselves to this acknowledgment of (partial) failure. Instead of recommending the elimination of this mechanism, they outline proposals to improve it. Although the 'master plan' tool is headed in the right direction, it calls for other advancements towards urban management which is more democratic, more effective, respectful of collective interests and beneficial for the future of the city.

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Introduction

Since its creation in 1989, the Brussels-Capital Region (BCR) has been having a hard time bringing long-awaited major urban development projects to a successful conclusion. For example, there is the emblematic case of the Tour et Taxis site, where derelict land covering tens of hectares is being urbanised and redeveloped, or the state administrative district site, which involves the re-allocation of a vast office complex and the diversification of functions on the site, or the European quarter, with the harmonious development of an area which has been extensively rebuilt and is considered to be crucial for the future of the city.

Through the impetus given by minister-president Charles Picqué, the last legislature nonetheless allowed the implementation of a new public action mechanism which was innovative in several respects: the 'master plan'. This mechanism was designed in the framework of the 2002 Regional Development Plan as the preferred tool for the development of the fourteen 'areas of regional interest' also provided for in the text.² Its objective is to outline the future development of these areas and their surroundings *before* any new project is launched, in an integrated perspective at regional level and in consultation with all of the stakeholders concerned, including public stakeholders (first and foremost the Region and the municipalities), private stakeholders (property owners and, in certain cases, prospective investors) and citizens (the 'inhabitants'). These guidelines or main orientations have an illustrative purpose yet are established by governmental decree, and must be made operational by means of existing urbanistic tools, namely the special land-use plan (or PPAS), which has regulatory scope and must be finalised by the municipalities concerned.

Until now, three master plans – 'Botanique', 'Tour et Taxis' and 'European quarter' – have been approved by the government. The West Station project is about to be

² These fourteen areas are Érasme, Forest, Midi, Canal, Tour et Taxis, Botanique, Europe, Toison d'Or, Heysel, Hôpital militaire, Schaerbeek-Formation, RTBF-VRT, Delta and West Station (see Map 2 in the Regional Development Plan, Brussels-Capital Region, 2002).

approved, and the mechanism has been applied to three additional cases in recent months: Delta, Reyers-Diamant (RTBF-VRT) and Schaerbeek-Formation. Furthermore, although it did not lead to a formal master plan, the study conducted for the Josaphat Station site issued from a similar methodology.

The 'Botanique' master plan – which concerns the state administrative district and its surroundings – was initiated at the end of 2005. It was the first to have its formulation procedure officially launched at the beginning of 2006, it was the first to be approved by the regional government at the end of the same year, and the first to be translated into a governmental decree in 2007. On the initiative of the Institut de recherches interdisciplinaires sur Bruxelles (IRIB) at the Facultés universitaires Saint-Louis, an interdisciplinary and interuniversity research group called the '*Groep [in het nederlands] Levier*'³ was formed, and instantly recognised the potential importance of the new instrument for Brussels. It decided to monitor the elaboration of this first master plan, in particular as regards its concerted and participative character. It also examined the other first generation master plans launched shortly afterwards concerning the Tour et Taxis, Europe and West Station areas, in collaboration with two associations subsidised by the Region in view of organising citizens' participation in these processes, namely Brusselse Raad voor het Leefmilieu (BRAL) and Inter-Environnement Bruxelles (IEB). The present article summarises the key observations of the study conducted by 'Groep Levier',⁴ as well as those made during the afternoon of discussion on this subject.⁵ It will end with observations and proposals to be considered in the context of the recent 2009-2014 government agreement.

The objective is not to examine the content of the projects developed by means of the master plans; public meetings are being or have been organised for this purpose, and the *Atelier de recherche et d'action urbaines* (ARAU) devoted its last two *Écoles urbaines* to this in 2008 and 2009.⁶ Nor is it the aim of the present article to discuss the arbitrations involved in all of these master plans regarding the choice of priorities with respect to the huge financial means to be earmarked for their implementation. Instead, the focus will be on the changes resulting from the use of this new tool in terms of urban management and land-use planning procedures in Brussels.

³ <http://www.fusl.ac.be/gl>

⁴ This study was published under the title *La Cité administrative de l'État : schémas directeurs et action publique à Bruxelles*, Delmotte F., Hubert M. (dir.), *Les Cahiers de La Cambre Architecture*, n°8, Brussels, La Lettre volée/La Cambre, 2009.

⁵ This afternoon meeting was attended by approximately 150 people, and was organised at FUSL on 4 May 2009 by IRIB, La Cambre-Architecture and the VUB Cosmopolis centre (see the presentation of participants below).

⁶ See *Cinq chantiers pour Bruxelles. Actes de la 39^{ème} École urbaine de l'ARAU*, Brussels, *Atelier de recherche et d'action urbaines*, 2009.

The Brussels master plans: an ambivalent yet edifying first assessment

Triple necessity, triple promise

In the 2002 Regional Development Plan and other texts and speeches⁷ which preceded and accompanied the launch of the first master plans in 2005,⁸ this new way of conceiving the vast urban project in Brussels was justified time and again by a triple necessity, which was meant to be met precisely by the procedural tool.

Better coordination of public action

Firstly, the instrument is intended to contribute effectively to a better coordination of public action and its means, i.e. better coordination of public stakeholders at different levels of authority and the planning tools and procedures specific to them. In particular, in their institutional and political context and for historical reasons as well, the nineteen municipalities and the Brussels Region have shared authority in many areas of land-use planning and are sometimes at loggerheads, which may be reinforced by different political majorities.

Effective public/private partnerships

At the same time, the master plan should favour the establishment of vast 'development coalitions', which are sorely lacking in Brussels. It would allow the creation of effective public/private partnerships (PPPs) founded on mutual trust and commitment, when so many experiences of this type turn out to be real financial, urbanistic and human fiascos, in the past and just recently (as in the South Station area). There is a greater necessity to test the success of PPPs given that, in a certain number of cases, the public authorities have lost all or part of the land-use control of large regional land reserves, such as Tour et Taxis.

Reinforced democratic participation

Finally, the master plan is linked to the objective of increasing the involvement of citizens, 'ordinary inhabitants' and 'all of the residents of Brussels' in defining the regional 'city project' in general, in developing the resulting urban projects and in implementing concrete procedures surrounding these projects. Following the often positive experience of neighbourhood contracts,⁹ participation should be encouraged on a larger scale, always prior to the definition of projects. According to Char-

⁷ See for example the 'Déclaration de politique générale' of the Government of the Brussels-Capital Region, 20 July 2004, as well as the joint press conference held by the minister-president and the deputy burgomaster for urban planning of the City of Brussels, Henri Simons, 27 June 2005, just a few days after the launch of restricted invitations to tender for the elaboration of the 'Tour et Taxis' and 'Botanique' master plans.

⁸ See Olivier Paye's contribution 'Le schéma directeur, un nouvel instrument régional d'action publique. Des principes généraux à leur première mise en œuvre', in Delmotte F., Hubert M. (dir.), op. cit., pp. 56-101, regarding the definition of areas of regional interest, and in particular their connection with those defined in the Regional Land Use Plan (PRAS). The same work provides information on the main characteristics of the master plan as a generic tool and their interpretation and expression in the case of the 'Botanique'.

⁹ See on this subject Berger M., *Bruxelles à l'épreuve de la participation. Les contrats de quartier en exercices* (photos by Pauline Beugnies), Brussels, Ministry of the Brussels-Capital Region, Department for Land-use Planning and Housing, Urban Renewal Department, 2009.

les Picqué in his reference to the urban struggles, this involves above all never 'repeating the mistakes of the past'.¹⁰ Has this indeed been the case? This is the question we must ask ourselves today.

*The merits of the master plan policy
(or not throwing the baby out with the bathwater)*

As an original procedure founded on a substantiated diagnosis of the challenges to be met, the master plan clearly signified a triple promise of better coordination and more partnerships and democracy, honourable due to the flexibility of the mechanism and, above all, its particularly collaborative nature. Four years after the inauguration of the tool for the Botanique area (or the state administrative district) and for Tour et Taxis, the assessment of the first master plans appears ambivalent to say the least, in terms of better multilevel 'Region-municipalities' governance and efficient PPPs, as well as in terms of increasing participative democracy. The implementation of the new procedure was a big disappointment to certain associations which participated (IEB) or did not participate (ARAU) in the processes.¹¹ This appears to be the feeling among property developers and inhabitants, incredulous or sceptical about the will of the public authorities to truly take their concerns into account. Nevertheless, as well as the fact that the four master plans analysed by Groep Levier have been finalised and approved by the regional authorities or are about to be, the master plans have made undeniable progress in terms of the way in which the urban project is conceived.

The urban project: a newcomer in Brussels

Most importantly, an urban project for Brussels is being discussed once again, which is a major advancement in the recent history of land-use planning in the city. In other words, it is no longer only a question of square metres, dimensions and permits as it was a few years ago, but of diversified functions, density, mobility, aesthetic choices and, above all, of the integrated development of a true vision of the city in the medium and long term and at least at regional level, through an awareness of what is happening elsewhere and by learning from past experiences. This change of perspective is becoming more widespread within the political and institutional realms, which are induced to develop new competences, and the urban project – and not only its absence – seems to be a topic of public debate. Admittedly, this 'progress' is not above all the product of the new mechanism as such: it is rather the fruit of an intense mobilisation of several new urban stakeholders since the beginning of the decade, in particular among young architects and town planners.¹² This being the case, the master plan policy – and prior to this, the re-

¹⁰ Charles Picqué press conference, 17 October 2006. See also on this subject the article published in Brussels Studies: Martens A. (2009), Ten years of expropriations and evictions in the Brussels North Quarter (1965-1975): what are the legacies today?, n°29.

¹¹ See for example the ARAU press conferences on 18 October and 20 December 2006 concerning the 'Botanique' master plan, published in Cinq chantiers pour Bruxelles. Actes de la 39^{ème} École urbaine de l'ARAU, op. cit..

¹² See on this subject Hubert M., 'Un passé bien présent. Le site de la Cité administrative de l'État, condensé de l'urbanisme bruxellois', in Delmotte F., Hubert M., (dir.), op. cit., pp. 14-55. The premises of this turning point go back to 1995 and the occupation of Hôtel Central, opposite the stock exchange.

gional administration which formalised it – may be credited with having recognised this evolution and having attempted to give it concrete expression.

The consensus among the public authorities: another novelty

Furthermore, in the four cases examined, the master plans also allowed the regional and municipal public authorities to agree on the outline for the development or the re-allocation of areas or sites which, until then, had been the subject of long and bitter debates, as was the case with Tour et Taxis. This is unquestionably an advantage of the consultative procedure. Moreover, dialogue may be encouraged and reinforced by a favourable political context and relationship. This is the case in particular when the political majorities are the same at regional level and in the municipality concerned, or when the stakeholders involved at the different levels know and appreciate each other, and are even used to working together.

The beginnings of a common dialogue and language with the private partners

The master plans also forced the public and private stakeholders – current property owners and developers, potential investors and other developers – to meet regularly. Thus, the master plans have the potential to contribute to creating a common language and a shared culture of an urban project in Brussels. At the very least, they allow the obstacles to such a long-term undertaking to be pinpointed. One of the first objectives of a master plan might be to agree on the disagreements.

Learning about participation

Finally, for each of the master plans studied, the participation of inhabitants was organised essentially in the form of information meetings or workshops¹³ by BRAL (for the state administrative district and Tour et Taxis) and IEB (for the West Station and the European quarter), which were given this mission by the public authorities, in consultation with the selected consultancy firms. The latter sometimes had to learn to 'communicate' about relatively abstract projects and above all to justify in real time the decisions made with politicians as regards the orientation of these projects. Here as well, it would be unfair to attribute this innovation solely to the master plan. With a long history of urban struggles in Brussels having paved the way, this advancement is clearly linked to the many years of awareness-raising work carried out by the associative sector, with support from the new defenders in the world of architecture who advocate more 'participative' urban planning. Furthermore, it was necessary for certain political stakeholders to hear the protests and proposals and decide to make use of a new instrument in an attempt to do justice for the first time concerning projects of this scope.

A triple disappointment?

That being the case, why should there be talk of unkept promises, if not with respect to the generic tool and its principles, then at least to the first generation master plans? Perhaps we were simply expecting too much (including the researchers) of this illustrative and non regulatory tool which is not intended to act as a substitute

¹³ As regards the case of the 'Botanique', for the account of the participative mechanism in 2006, see Delmotte F., Damay L., Schaut C., Huynen P., 'L'histoire du projet au fil des débats publics', in Delmotte F., Hubert M. (dir.), op. cit., pp. 122-160.

for existing procedures and which is only in its beginning stages. The fact remains that these first experiences lead to an assessment which is ambivalent to say the least. Let us mention the fact that the formulation procedure for projects was much longer than planned in three of the four cases examined here, either due to continual disagreements between public and private partners as with Tour et Taxis (whose formulation procedure lasted two years), or due to the realisation of lengthy technical feasibility studies which were imposed belatedly on the consultancy firm, as in the case of the West Station (where the finalisation and adoption of project has been imminent since January 2008). In the case of the state administrative district, it went on until just over the initial six months, but at the expense of a somewhat shortened procedure, in particular in terms of its participative dimension. One might call it a disease of youth, and rightfully so. More concretely, are there any elements in support of our verdict?

Region/municipalities: lengthy and disconnected procedures

After being approved by the government and becoming the object of a decree, the master plans appear to have been condemned to a very delayed expression at municipal level in new special land-use plans (PPASs). These plans are supposed to provide a restricting character, opposable and therefore truly operational, to the orientations defined by the master plans. It appears that, with all the impact studies and consultation committees, not only does the preparation of PPASs tend to take several years, but regional and municipal action is once again disconnected, as it was in the past.

Public/private: resolutely opposing interests and a fruitless dialogue

Meanwhile, there is nothing preventing impatient property developers (apart from, perhaps, a moral obligation) from sending in their applications to the municipalities concerned – in this case the City of Brussels for the state administrative district as well as for Tour et Taxis – for permits which, in some aspects (functional uses, surface areas devoted to offices), do not respect the orientations of the master plan.¹⁴ In reaction to the slowness and lack of efficiency of public action procedures, the property developers are thus contributing to undermining a very fragile process of confidence building between 'partners'.

The inhabitants: absent or with no say

Finally, the participation of inhabitants, which was so widely heralded *a priori* and spoken so highly of *a posteriori*, apparently did not lead to the expected outcomes either, probably due to a lack of clearly defined objectives, methods and limits. As regards Tour et Taxis, the *T&T: TouT publiek* 'manifesto' really did play a role, albeit as an improvisation made possible by a certain offsetting of the initial procedure and its delays.¹⁵ In a much more obvious way, as regards the projects related to the state administrative district and the West Station, one would have to look hard to find evidence of demands made specifically by citizens in terms of content propos-

¹⁴ See on this subject Damay L., Delmotte F., 'Une expérience bruxelloise entre gouvernance et participation', in Delmotte F., Hubert M. (dir.), op. cit. pp. 176-178 ('Des principes qui ne pèsent pas lourd').

¹⁵ See Descheemaeker A., 'Tour et Taxis ou les ambivalences de l'urbanisme participatif à Bruxelles', in *ibid.*, pp. 240-255.

als such as those regarding the transparency of procedures. As a result, the experience reinforces the suspicion of an operation with wide media coverage intended only to legitimise projects which were already defined, or at least decided elsewhere and by others. The risk is therefore that doubt will be cast on the very possibility of involving the inhabitants of Brussels in the dialogue concerning major urban projects. From a more pragmatic point of view, there is also the risk that the gap between politics and citizens will widen, when one of the first motivations of the mechanism was to fill it.

Answering three questions... in order not to repeat the mistakes of the past

For the reasons mentioned above, it would not be excessively pessimistic to speak of 'semi-failures' (or of 'semi-successes' if one prefers). The first master plans – through their disappointed ambitions – nevertheless have the merit of reminding us of the importance of taking the demands of political responsibility seriously, of dialogue and, lastly, of democracy. To take matters further, below is a summary of the abovementioned afternoon meeting on 4 May 2009, during which the analyses of 'Groep Levier', centred on the following three questions, were presented to political guests¹⁶ and participants¹⁷ who were stakeholders in the area of urban planning in Brussels.

One Region, nineteen municipalities: how can urban governance be improved in terms of major projects in Brussels?

The creation and implementation of the 'master plan' tool testifies clearly to the emergence of reflection at regional level about the future of areas of regional interest. This does not mean that the future of each of these areas has been etched in stone, or that the methods of coordination – however necessary – of the different master plans have been clearly outlined as part of a shared vision of regional development. Furthermore, the master plans were also meant more or less explicitly to be an ad-

¹⁶ Christian Ceux, CdH deputy burgomaster for urban planning in the City of Brussels, Cécile Jodogne, acting MR burgomaster and deputy burgomaster for urban planning in Schaerbeek, Yaron Pesztat, head of the Ecolo group in the Brussels-Capital Region parliament, and Pascal Smet, sp.a. minister for mobility and public works. Françoise Dupuis, PS state secretary for housing and urban planning, was invited but could not attend.

¹⁷ The participants in the first session which was devoted to 'governance' were: Bruno Clerbaux, architect and urban planning director of ACP Group, in charge of the 'West Station' and 'European quarter' master plans, Luc Maufroy, director of the recently created Regional Development Agency (ADT), and Cédric Van Meerbeeck, representative of the department for land-use planning and housing. For the second session concerning the PPPs, the participants were Michel de Bièvre, CEO of S.A. Project T&T (Tour et Taxis), Nicolas Joschko, executive director of the Société de développement pour la RBC (SDRB) and Benoit Moritz from the architecture firm MSA, in charge of the 'Botanique' and 'Tour et Taxis' master plans in association with Ateliers Lion, as well as being a teacher and researcher at La Cambre Architecture. Finally, the other contributors who led the debate on participation were Vincent Degrune, project manager in the municipality of Molenbeek-Saint-Jean, in charge of the Escaut-Meuse (Maritime) neighbourhood contract, Isabelle Pauthier, director of ARAU, Mathieu Sonck, general secretary of IEB, and Steyn Van Assche, task officer at BRAL who had also participated with An Descheemaeker in the work conducted by Groep Levier.

vancement in terms of specifically regional prerogatives in the area of land-use planning. But, as we have seen, task sharing – or handing on the baton – between the levels of regional and municipal authority still poses a certain number of problems. And it seems as though the master plan just adds another step to an already long and hazardous procedure which has not enabled major urban projects in BCR to be brought to a successful conclusion. What should be done to achieve a certain level of efficiency?

Specify each role and the function of each tool in procedures which are shorter and above all better defined

It is important to begin by clearly specifying the role of each public stakeholder concerned in the different steps of the elaboration, expression and implementation of a master plan, namely: the regional government, the competent administration in the area of planning (department for land-use planning and housing), the new regional development agency, the future 'chief architect' and his team and, *last but not least*, the municipalities. In addition, it must be decided whether it is appropriate or not for the 'master plan' procedure to have a legally binding nature which would enable later phases to be simplified or even bypassed.

In other words, should the PPASs be done away with and left in the dungeons of an urban planning which, admittedly, sets stable and precise rules (in terms of function, density and height) but does not leave enough room for creativity, and even hinders the realisation of projects due to lengthy and rigorous procedures? How much scope should be given to the municipalities? Should the Region alone control the entire elaboration process for a project of regional scope? Would this be the only possible way to preserve the quality of the different steps (master plan, decree, PPAS), whilst integrating them into a single mechanism? In so doing, how can we safeguard the public enquiry, which constitutes the main prerogative of urban democracy in Brussels? And is such a solution politically acceptable and realistic, considering the institutional and historical context of Brussels?

According to certain participants in the debate, objectively, the surface area and population of BCR force us to consider it above all as a *city* where decisions must be taken by a single entity and not by nineteen. However, a distinction must be made according to areas of responsibility. Although, for example, there is no longer any doubt that anything related to mobility must fall within the remit of the Region, the municipalities are important stakeholders in urban development, as regards democratic legitimacy as well as knowledge of the territory. The question may be asked as to whether it is necessary to make use of a PPAS in *all* cases.

Designate a pilot and define an order of priorities: the responsibility of politicians

The demands of *property* developers in particular regarding shortened/accelerated procedures and the designation of 'a pilot for the plane' should be considered: a clear and precise identification of public decision-makers and representatives *for each project* and for the *coordination of projects*. In this respect, a challenge to be faced by the next legislature will certainly be to escape the 'peppering' approach, whereby development takes place 'a little bit everywhere'. Concentrating on certain sites appears to be the only politically and financially credible approach (see below). It should nevertheless be acknowledged that it is not only the Region/municipalities

partition which hinders better governance: it is also impeded by the multiplicity of public and semi-public stakeholders at regional level alone.

One can appreciate the huge amount of hope placed in the newly created regional development agency (and later in the 'chief architect'). However, many questions remain. What will be its decision-making power? How much autonomy and independence will it enjoy with respect to the regional government? What material and human means will be available for it to take on the various assessment and coordination tasks devolved to it?

Public/private partnerships: problem or solution?

The involvement of property owners or potential investors in the elaboration of a master plan is often felt to guarantee the success of large-scale development projects. In a sense, this involvement is inevitable because, in most cases, the public authorities have lost the land-use control for all or part of the area considered and/or in any case are not able to finance the planned works alone.

Promoting public interest: the sinews of war

Faced with this situation, there are two conflicting views. For some, the Region should regain a certain amount of control of the major land reserves in terms of property. It is therefore important to know whether, for example, the Société d'acquisition foncière (SAF) should be reinforced for this purpose, or whether certain agreements should be renegotiated with the federal state (in particular in order to regain control of the large amounts of railway land which is at the heart of several important areas of regional interest). For others, the objective of land-use control should be pursued not by recovering the areas concerned, but by modifying *regulations* and orders; this would involve planning or even 'old-fashioned' planning – an approach which should not jeopardise the advancements of the proactive urban planning model promoted throughout the master plan policy.

However that may be, in most concrete cases, the problem is to get private stakeholders to adhere to a programme which defends a certain public interest (for example, through the creation of green spaces, community facilities or social housing) and may seem far removed from theirs. In such a context, how can we ensure that promises will be kept?

Of course, the public authorities issue the permits in the end; in this respect they have the final say. It would therefore not be necessary to 'waste' already meagre resources on the purchase or repurchase of land and buildings, when so many investments are waiting to be made in other areas in Brussels. But, both effectively and legitimately, the dependency with respect to the private sector is growing and there is a lack of structures to guarantee public interest, such as the semi-public companies in France. For the public authorities, it is not only a question of having the final say, but also – and perhaps above all – of having *the first say* on the orientation of projects.

Public/private: escaping an antagonistic approach without being naive

Furthermore, it should be underlined that the public/private 'dependency' is not only a question of money, that it not one-sided and that it must not only be understood in negative terms. First of all, it is also a question of expertise, as demonstrated by

the successful experience of the SDRB in the area of housing. The quality of green spaces or community facilities, which is usually classified as a 'public interest' issue, is also an important element which benefits private interests and reinforces the necessity for an alliance between partners.

The fact remains that, in all sincerity, the master plans (Tour et Taxis in particular) provide concrete examples of the refusal on behalf of private partners to work on projects of semi-public companies or on other forms of PPP, which must be taken seriously. It is true that the double talk – or at the very least the ambiguity – does not make things easy: for the same mechanism or even the same project, public stakeholders sometimes uphold the primacy of public control (through the conditionality of permits), and sometimes the idea that the project must emanate from a discussion with private partners, who thus cannot help but be suspicious. Once again, the motto could be '*clarity of the rules of the game*', and the definition of each role. But beyond this, there must be a *mutual interest* on either side to make use of a PPP formula. One must dare to wonder whether the current system benefits everyone, as no one seems ready to make concessions on prerogatives.

The participation of inhabitants: with whom, how and why?

Clarity of the rules of the game, definition of each role and understanding of everyone's best interests: what was just said about PPPs (in the broad sense) may also be applied to participation.

Participation is not an accessory and must be adapted to the project

Quite often, the 'participation of inhabitants' is considered to be the poor relation of the mechanisms associated with major urban projects: it is all talk and no action. Nevertheless, although it is not a fundamental principle of the master plans, increasing the democratic nature of procedures is a key ambition of property developers. In this matter, a relative failure is therefore all but insignificant in terms of the expectations generated. It also casts doubt on other innovations in the area of urban development, in particular the 'internationalisation' of Brussels. Finally, failed participation is detrimental to the extent that it reinforces a lack of understanding, and even causes some to harden their positions.

It is therefore important not to have the wrong ambitions and to answer three crucial questions *before* the implementation of the mechanism, which does not exclude later adjustments or adapting answers to the scale and nature of projects. In short, it involves defining a precise programme which sets the *stakes*, defines the *rules* and identifies the *participants*.

A triple condition: determine the objectives and limits, identify the stakeholders, define a procedure

First and foremost, a simple question must be answered, which is often ignored under the pretext of not getting lost in conjectures: what is the purpose of participation? Is it intended to satisfy the concerns of civil society and everyday expertise or rather to preempt any opposition? What is really expected of participation? What should it be based on and what influence should it have on decision-making? It is clear that the master plans have above all suffered from a lack of forethought on this

aspect of the problem. Establishing clear limits at the outset for any participative procedure is an indispensable condition for its success.

Thus, valuing the expertise of inhabitants is not appropriate in all situations. In the same way, it cannot be put on the same level as that of experts working in the urbanisation of areas such as those targeted by the Regional Development Plan (RDP) or the International Development Plan (IDP). For certain participants at the seminar, a 'good project' means a good architect above all, and the opinion of inhabitants is only necessary at neighbourhood level. On the contrary, for others, participation involves the inclusion of all stakeholders – the inhabitants above all – in the definition of the procedure itself and even in the allocation of budgets, in a perspective inspired by the model of participative budgets in Porto Alegre.

At the very least, it therefore seems logical for the public authorities to outline the redevelopment or development of the sites considered, and to indicate what could or must be debated and what cannot be, *in the specifications* – which could be the object of a public enquiry. In this perspective, the regional public authorities must accept their role as pilot and decision-maker *before and after* the formulation procedure for the project. It may be added that regardless of the scope given to inhabitants in terms of their interventions, it is always up to the politician to guarantee public interest.

The second question which must be examined is obviously that of the determination of participants. Which 'inhabitants' should be involved in the elaboration of master plans? Only the occupants, residents or neighbours of the sites concerned? The future potential occupants? Any citizen interested in regional stakes? In a fragmented manner or by allowing constituent associations?

In this context, the question of pluralism and representativeness must also be raised. For the *optimal* legitimisation of the results of a participative mechanism it is crucial to reach the different components of the population. At the very least, the fact that certain fractions of the population are repeatedly *not* reached (in the disadvantaged neighbourhoods or in areas with a high population of immigrants or of people from an immigrant background) represents a serious problem.

This point brings us to the third and last question, namely that of the procedure, its progress in time, its locations, its organisers, its *follow-up* and its means. It does not stand to reason that it is desirable to implement a universal (from the viewpoint of those addressed), formal (from the viewpoint of the procedure strictly speaking) and opposable (from the viewpoint of its results) mechanism each time. But such an option, like any other, entails specific choices and demands. More precisely, questions are raised regarding the choice of mediator in charge of organising participation, the necessity and the means of favouring the emergence of a collective voice or, more prosaically, the necessity of a 'classic' public enquiry following the elaboration of a master plan.

The first point to be underlined at once is the necessity of a firm commitment on behalf of key stakeholders (public and private) in order for a participative procedure involving inhabitants to actually take place. One may therefore wonder whether the *professionalisation* of mediators is inevitable and desirable. Is the often difficult mobilisation of the so-called working-class population under the remit of associations?

Once again, instead of being out of the fray, should politicians not agree to be *at the centre* of it, rather than being replaced by other stakeholders?

In conclusion, observers and stakeholders at all levels can only agree on the importance of the follow-up phase of any participative procedure, all the more for long-term projects. In the same way, it is essential to devote the necessary attention and time for *the evaluation* (also participative) of the mechanism.

Conclusions and recommendations

We shall conclude the present summary with eighteen observations and proposals related to the three main arguments developed previously, which summarise those presented in detail above or which put forward others.

Concerning governance

1/ It is important to take the question of the boundaries of Brussels and its hinterland seriously. This question is not new and has been the subject of recent studies.¹⁸ Does land-use planning – especially at the level of a master plan – only concern the inhabitants of the nineteen municipalities or should all of the city's users be heard, and even those who feel involved? How can the future be envisaged at urban level, whilst preserving the interests of BCR?

2/ It is necessary to clarify the division of powers in the area of urban planning in Brussels, between the municipalities and the Region as well as within the departments, agencies and administrations which have flourished in recent years.¹⁹ In particular, a decrease in the authority of municipalities should be considered, without being regarded as a cure-all. Recent changes have occurred, for example in the area of parking or in the recent reform of the *Code bruxellois d'aménagement du territoire* (Cobat). An analysis of the best decision level (regional, municipal, mixed) must be carried out on a case-by-case basis, in order to achieve a well-balanced division of powers which allows municipal autonomy, whilst providing a solution to current problems. The 2009-2014 government agreement holds that 'the Region will be empowered to realise PPASs in strategic areas such as those defined in the Cobat (areas of regional interest of the RDP, ZIRs of the PRAS)'.²⁰

3/ Due to its contradictory stakes, urban planning involves frequent fluctuations between the application of and departure from the rules. The mechanism has the power to relax overly strict legal provisions, but entails the risk of an extreme weakening of standards. Precise rules must therefore be established as regards the possibilities of departure from the legal standards.

¹⁸ Van Wynsberghe C., Poirier J., Sinardet D. and Tulkens F., 'The political and institutional development of the Brussels Metropolitan Zone: observations and prospects', in Brussels Studies, synopsis n°10 of the Citizens' Forum of Brussels, February 2009, 11 pp.

¹⁹ This brings us to one of the claims of the group Disturb, voiced during the government negotiations in summer 2009.

²⁰ Brussels-Capital Region, Un développement régional durable au service des Bruxellois, Government agreement 2009-2014, Brussels, 12 July 2009, p. 56.

4/ The usefulness of illustrative and non regulatory tools – such as the master plan – should be the object of a study prior to their use, in particular due to the fact that they come in addition to existing instruments; in the same way, their merits must be the object of an *a posteriori* evaluation.

5/ The master plans are faced with the threat of illegality due to the absence of an environmental impact study, as required by the European directive on plans and programmes. The question remains as to whether the master plan is a 'plan' or a 'programme' according to the directive. A definite legal clarification of this point does not exist, yet it cannot be overlooked.

6/ The importance of public land-use control must be sized up exactly. It is not limited to the ownership of land but rather is made up of elements such as the regulatory framework for projects and the types of PPP.

Concerning the PPPs

7/ The notion of PPP does not have a legal definition. It encompasses a range of very different situations.²¹ It would therefore be appropriate to determine concretely what it means when we speak of establishing a PPP.

8/ The significance of these partnerships lies in the pooling of elements which are specific to the private sector (e.g. expertise, financing) and to the public sector (e.g. public property to be developed). It is essential to determine the cases in which the different forms of PPP may apply.

9/ This public-private collaboration must always undergo a complete evaluation of its advantages and costs. The public authorities therefore have the biggest role to play during the pre-collaboration phase, in order not to be attacked by the critics.²² A recent manual provides a useful tool in this respect for public decision-making.²³

10/ The selection method for private partners appears to be an essential issue, as is the definition of contract award objectives; the rules on competition must be legally respected.

11/ The issue of the balance of power in joint decision-making remains delicate and crucial. It is no secret that both the public authorities and the private sector may have difficulty collaborating: the former out of fear of losing the power which they sometimes believe is still absolute, and the latter out of a will to define public interest themselves when they do not have the legitimacy to do so. The practice of PPPs must lead to the development of an ethos of collaboration allowing a clearer definition of the respective roles.

²¹ Tulkens F., 'Les partenariats public-privé : six constats critiques en guise de conclusions' in Lombaert B. (éd.), *Les partenariats public-privé (P.P.P.) : un défi pour le droit des services publics*, Bruges, La Charte, 2005, pp. 387-388.

²² See the (critical) report by the Court of Auditors on the use of PPPs in Flanders, February 2009, Doc. Parl. Fl., 37-A (2008-2009) -1, 114 pp. ; adde www.courdescomptes.be

²³ Manuel pratique des partenariats public-privé constructifs en Région wallonne, March 2009, 178 pp.

12/ Finally, the public authorities cannot ignore the question of the economic profitability of the projects. Making all of the risks or heavy burdens the responsibility of the private partner may lead to the failure of the projects, in particular due to the opposition of financial bodies approached by the companies concerned, which do not usually participate in the definition of projects.

Concerning participation

13/ Power of opinion or power of decision? In order not to deceive people, the two should not be mixed.²⁴ For example, it may be stated at the outset that participation has a decision-making purpose, but is not equal to a decision. At any rate, the authorities must 'take this into account' and, consequently, base their decisions on the results of participation.

14/ It is important to organise the opportunities for participation so that clear and motivated conclusions ensue. In the same way, case law requires the results of consultation committees to lead to an opinion which, if not unanimous, is at the very least shared by the majority, and not to a juxtaposition of viewpoints which does not give the decision-making authorities a general idea, thus preventing them from taking a correct decision.

15/ It is also necessary not to underestimate the secondary and potentially beneficial effects of the more frequent use of 'participative' mechanisms on social ties or on the professionalisation of stakeholders.

16/ Participation must be viewed in a long-term perspective: if it is planned before projects are defined, its follow-up must be ensured once they have been adopted and often until they have been implemented.

17/ Similarly, the most recent experience confirms that participation is not a dispensable ornament of public policies. Its practice involves demanding procedures whose effects are concrete and lasting, even when they fail.

18/ More generally, the new changes do not exclude the risk of true competition between the representatives and those represented, with legal arbitration if necessary.²⁵ The result is a '*citizens' sword of Damocles*' which has an impact on many urbanistic or environmental decisions taken by the local authorities.

In short, the experience of the first master plans in BCR provides an occasion to improve the efficiency of public action mechanisms in the area of urban planning in Brussels. Its flaws should not be evoked to slow down the effort but rather to assess the road which lies ahead.

²⁴ For an in-depth legal analysis of the phenomenon of participation in the framework of public enquiries, see Delnoy M., *La participation du public en droit de l'urbanisme et de l'environnement*, Brussels, Larcier, 2007, 937 pp.

²⁵ This is the interpretation which may be made of the recent rulings allowing inhabitants to act in the name of their municipality to obtain a cessation of activities previously authorised by the municipality itself. See Pijcke G. and Tulkens F., 'L'action en cessation environnementale exercée par les habitants : une action populaire consacrée par la Cour constitutionnelle ?' note under CC, n70/2007, 26 April 2007, *Amen-Env*, 2007/4, pp. 205-212.