

LEGAL FRAMEWORK FOR THE INTEGRATION OF ALTERNATIVE MOBILITY SERVICES INTO HOUSING IN AUSTRIA

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1. Introduction

Alternative mobility services such as car-, bicycle- and E-scooter sharing, carpooling or on-demand microtransit services are considered to have great potential to make a significant contribution to the mobility transition. Although numerous different services have been provided by various operators in Austria for quite some time, they have not yet become established on the market on a broad and comprehensive scale. Therefore, according to recent strategies adopted by the Austrian Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology, their integration into the public transport system, but also into sectors relevant to mobility as for example residential housing should be driven forward [1]. Since the mobility services available in the residential area play a key role in determining mobility behaviour, the planning of new urban development areas and housing projects, but also the transformation of the existing building stock offer the opportunity to implement sustainable mobility concepts, including alternative mobility services like car- or bike-sharing in the residential environment.

For the successful implementation of an integrative approach that combines housing and the mobility needs of residents in an appropriate way from the perspective of sustainable mobility, a reasonable legal framework is considered a key factor. However, just as alternative mobility services in general are hardly regulated in Austrian administrative law, which leads to a number of legal uncertainties [2], by now, the legal basis for the integration of alternative mobility services into housing projects in Austria often remains unclear. This paper examines the relevant legal framework in Austria, starting from an analysis of the status quo and addresses open questions, needs for action and possible new approaches.

2. Methodology

In a first step the central issues of the existing legal framework in Austria for alternative mobility services and their integration into housing were recorded and systematised by conducting a legal-dogmatic analysis of the relevant applicable legal provisions. At the same time, selected case studies were analysed, for which guideline-based expert interviews were conducted in order to record experiences and problem areas relevant to practice. Based on the analysis of the legal framework and the evaluation of the results of the expert interviews, as well as a supplementary literature analysis, problem areas were identified and the need for action pointed out.

3. Results

The relevant legal framework in relation to the linking of housing and mobility is laid down in the building and spatial planning regulations of the federal states and currently consists primarily of regulations regarding the construction of car parking spaces for residential buildings (so-called parking space obligation). The aim of the regulations is to ensure that sufficient parking spaces are available for residents' cars and bicycle parking spaces are provided, alternative mobility services are usually not taken into account [3].

A legal obligation to provide alternative mobility options (such as car sharing services) has not yet been laid down in law. However, the integration of alternative mobility services in residential buildings is occasionally provided for as an option to deviate from the number of mandatory car parking spaces. Whether and under what conditions the number of car parking spaces can be reduced in favour of alternative mobility options is primarily in the hands of the administration. Only in Vienna, a recent revision of the building code introduced the option, that by establishing a car-sharing service as a "compensatory measure", the number of compulsory parking spaces is reduced [4, 5].

Therefore, the use of the parking space obligation as a starting point or control mechanism for the promotion of shared mobility services is currently mainly carried out via instruments under private law. Municipalities conclude contracts with property developers – so called Urban Development Contracts or „Mobility Contracts“, as for example in the city of Graz [6]. Property developers undertake a contractual obligation to implement alternative mobility solutions (for example provision of bicycle parking spaces, charging facilities for e-vehicles, car-sharing services, bike-sharing, public transport passes for tenants, bicycle service stations, mobility counselling services, etc.). In return, the municipality agrees to reduce the mandatory number of parking spaces.

However, the use of such contracts has also some disadvantages. The contents of the contracts are legally only guided by the objectives set in the spatial planning laws, which are very vague in this respect [7]. Also, there is no obligation to make the contracts accessible to the public. Furthermore, the long-term financing of the operation of sharing services is not secured in most cases, as the property developers undertake to provide only temporary financing for the first few years. Later on, the sharing services are supposed to be economically self-sustaining, but in practice this is often not the case, which is why they are then discontinued. Finally, the possibilities for use of urban development contracts in existing buildings in refurbishment projects are limited.

Due to these shortcomings of the currently used legal instruments, changes in the legal framework and new approaches are being discussed to push the integration of alternative mobility services in residential housing. For example, the obligation to provide parking spaces could generally be (partly) replaced by the obligation to implement a sustainable mobility concept, consisting of various measures, including for example car sharing. Examples for this model can be found in Germany (e.g. Bremen's Mobility for New Buildings Bylaw) [8]. Another option could be that property developers could be legally obliged to contribute to a special "mobility fund", which is set up to finance the implementation of mobility concepts for housing projects in urban development areas and managed either by the public authorities or privately. In Austria, one "mobility fund" has already been set up in Vienna [9].

4. Conclusions

A suitable legal framework is a key factor for a successful integration of alternative mobility services into housing projects, which contributes to shared mobility services becoming a decisive factor in changing mobility behaviour and achieving the goals set for the mobility transition. In view of the shortcomings of the current regulatory system in Austria, still mainly focusing on the obligation to build parking spaces for cars, it is assumed that corresponding regulations in the building and spatial planning laws have to be adopted. Therefore, new instruments for the integration of alternative mobility services into housing still have to be examined more closely with regard to their possible legal implementation.

References

- [1] 1. Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology. Austria's 2030 Mobility Master Plan. [2024-09-10]
https://www.bmk.gv.at/dam/jcr:eaf9808b-b7f9-43d0-9faf-df28c202ce31/BMK_Mobilitaetsmasterplan2030_EN_UA.pdf
- [2] D. Damjanovic, O. Peck. Der rechtliche Rahmen für alternative Mobilitätsdienstleistungen – offene Fragen und Handlungsbedarf. *Zeitschrift für Verwaltung* 2023 (4): 285-296.
- [3] H. Frey, T. Brezina, G. Emberger. Mobilität. In *APCC Special Report: Strukturen für ein klimafreundliches Leben*, chap. 6. Springer Spektrum, Berlin/Heidelberg, 2023.
- [4] § 50b Wiener Garagengesetz, LGBI 46/2010 in the version of LGBI 37/2023.
- [5] S. Cejka. Die Energie- und Mobilitätswende in den Bauordnungsnovellen 2023. *Recht der Umwelt* 2024 (02): 53-57.
- [6] EU Urban Mobility Observatory. Graz Mobility Contracts for sustainable mobility in new developments. [2024-09-10]
https://urban-mobility-observatory.transport.ec.europa.eu/resources/case-studies/graz-mobility-contracts-sustainable-mobility-new-developments_en?prefLang=en
- [7] A. Schüßler-Datler. *Städtebauliche Verträge*. Verlag Österreich, Wien, 2020. 207p.
- [8] Freie Hansestadt Bremen. Providing innovative mobility management rather than car parking spaces. [2024-08-27]
https://www.sharenorth2.eu/wp-content/uploads/2024/06/MobBau0G-Broschure_ENGLISH.pdf
- [9] Stadt Wien. Der Mobilitätsfonds Wien im Überblick. [2024-07-12]
<https://www.wien.gv.at/verkehr/mobilitaetsfonds/ziele-und-organisation.html>