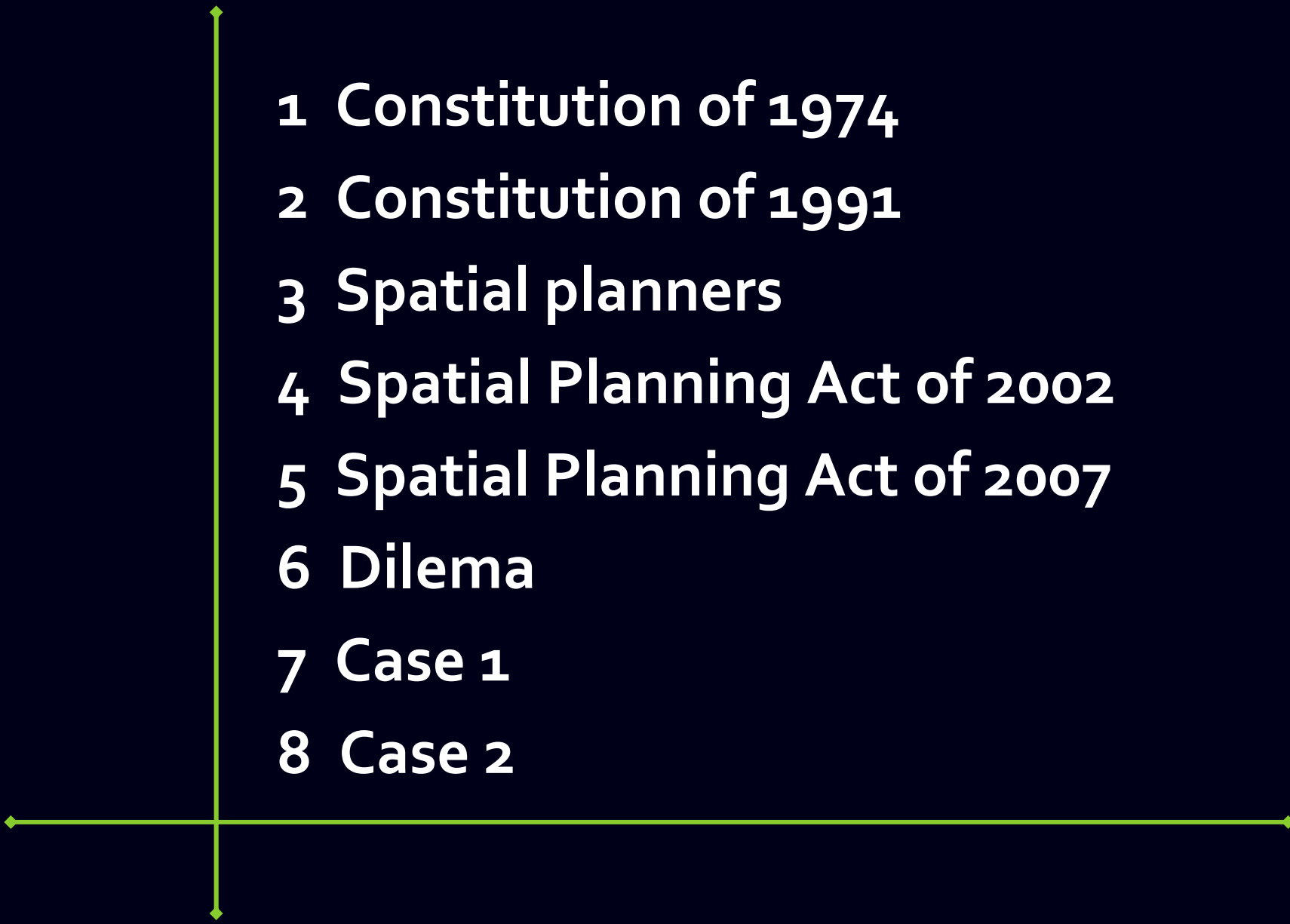


**LAND USE AND DEVELOPMENT
BETWEEN PUBLIC AND PRIVATE
INTERESTS –
SLOVENIAN EXPERIENCE**

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- 1 Constitution of 1974**
 - 2 Constitution of 1991**
 - 3 Spatial planners**
 - 4 Spatial Planning Act of 2002**
 - 5 Spatial Planning Act of 2007**
 - 6 Dilema**
 - 7 Case 1**
 - 8 Case 2**

1 Slovenian Constitution of 1974

- superiority of “social” (public) over private interests
- land use had been planned in a non-professional manner:
 - an over - extensive scope of land for construction on agricultural land
 - land use inadequately defined
 - private interests not taken into account
 - (private) investors not interested in construction on certain types of land

2 Slovenian Constitution of 1991

- the right to private property is constitutionally guaranteed
- the existence of “public benefit” - prerequisite for the constitutional admissibility of revoking or limiting of ownership rights
- the term “public benefit” is not identical to the term of “common/public interest”
- the meaning of the term of public benefit is more strict
- requires the weighting of the weight of public interest on the one side, and of the weight of private interest on the other side

3 Spatial planners should therefore

- at the stage of land use planning identify and weight
 - public interest on the one side, and
 - private interest of the real estate owner on the
- taking into account all the positive and negative effects of a particular land use

4 Spatial Planning Act of 2002

- wrongly equates the benefits and interests, which is non-compliant with the Constitution:

“In regulating the spatial planning issues, the persons competent for spatial planning shall take into account the **public benefits** and **public interests**, weighting them carefully against each other in compliance with the basic spatial planning objectives, where the private interest shall not prejudice the public benefits.”

5 Spatial Planning Act of 2007

- rectified this error

“The Principle of Prevalence of Public Interest

In spatial planning and building land development the competent state and municipal authorities shall take into account the public as well as private interests, weighting them carefully against each other in compliance with the spatial planning objectives, where the private interest shall not prejudice the public one.”

6 Dilema

On what basis shall the spatial planner shall be able to decide for or against certain land use, and how to substantiate the public benefit?

7 Case 1

- Spatial Planning Act of 2007: the real estate owners do cooperate to a certain extent in deciding on the designated land use
- final decision is up to spatial planners (without appropriate professional bases)
- professional bases (simulation of real estate project development): for the transparent, objective and unbiased decision-making on land use

8 Case 2

- “partner method” of private and public interest harmonisation within the public – private partnership.
- Smartinska Partnership in Ljubljana, Slovenia:
 - degraded industrial area of 240 hectares in Ljubljana
 - the municipality plans the detailed land use in agreement with real estate owners
 - the role of municipality: defining the direction and being the strategic partner at investments by private persons

Smartinska today



Smartinska in the future



Land use plan

