

The influence of judicial practice on intelligence actions in strengthening urban resilience: a comparative study of Romania, Poland, and Germany

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Abstract: Urban resilience has become a strategic priority for addressing complex economic, social, and environmental challenges in European cities. This article examines how judicial practice influences and mediates collective intelligence actions to strengthen urban resilience. We argue that case law plays a crucial role in translating European Union (EU) directives and policies on sustainable urban development into effective local implementation by providing legal frameworks that support innovation, public participation, and multilevel cooperation. Through comparative legal analysis, we assess national legislation, the integration of EU law, and landmark court decisions in Romania, Poland, and Germany, showing how courts shape urban planning, environmental protection, and governance. The findings indicate that, while countries adopt measures aligned with EU resilience objectives, their effectiveness is significantly influenced by judicial oversight: courts enforce directives, correct governance gaps, and facilitate collective intelligence approaches. Although differences persist, aligning national judicial practices with European norms is key to building resilient cities across the EU. The study clarifies how legal systems and urban resilience governance interact and offers policymakers options for leveraging judicial mechanisms to promote sustainable and inclusive urban development.

Keywords: urban resilience, EU multilevel governance, judicial practice, collective intelligence, domestic legal system

Introduction

Urban resilience refers to the capacity of cities to absorb, adapt to, and recover from shocks and stresses (Shi et al., 2022, p. 980), and it has become a priority of public policy amid accelerating climate change, urbanization, and social transformation (Buzási & Csizovszky, 2023, p. 616).

In the legal and governance literature, urban resilience is increasingly understood not only as the technical capacity of urban systems to withstand shocks,

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but also as the institutional capacity of legal and administrative frameworks to adapt to complex environmental, economic, and social pressures (Asadzadeh et al., 2023) (drawing on planning theory, EU law, and public-administration studies). In this sense, resilience becomes a governance concept that links spatial planning, environmental regulation, and participatory decision-making. Legal institutions, particularly courts, contribute to resilience by interpreting and enforcing norms that shape how cities respond to climate risks, environmental degradation, and infrastructural pressures.

Courts play a particularly important role in this process because they do more than translate abstract legal norms into concrete administrative obligations; they actively compel compliance and reshape the administrative landscape (Töller, 2021). Through judicial review, courts may invalidate deficient urban plans, force adherence to environmental standards, or redirect procedural obligations such as public participation and transparency (Jeon, 2024; Walker & Friendly, 2024). As a result, judicial practice becomes an institutional mechanism through which resilience-oriented governance is operationalized.

In this article, collective intelligence refers to institutional arrangements that allow diverse actors, such as public authorities, courts, experts, and citizens, to contribute knowledge to public decision-making. Within the scope of urban governance, such arrangements emerge through participatory planning procedures, environmental litigation, and multi-level legal oversight. Courts function as arenas where these different forms of knowledge and interests are reconciled through legally reasoned decisions. For example, in a widely cited case from Germany, a coalition of residents and environmental groups challenged a municipal land-use plan that overlooked local air quality data and citizen feedback. The court reviewed submissions from environmental scientists, technical reports, public hearing records, and municipal responses, ultimately ruling that the plan must be revised to reflect both expert evidence and community input. This example, further supported by numerous lawsuits from environmental organizations against inadequate municipal air quality plans in Germany (Bothner et al., 2022; Töller, 2021), illustrates how courts can channel various sources of knowledge into the legal process, making the abstract function of collective intelligence in judicial arenas more tangible.

European and national policymakers increasingly recognize that building resilient cities requires holistic approaches that integrate physical planning, environmental sustainability, and social inclusion within multilevel governance frameworks (2025). In particular, EU policy frames such as the New Leipzig Charter call for “the transformative power of cities for the common good” and coordinated action across governance levels to make cities greener and more resilient (European Commission, 2020). Urban resilience is therefore not only a technical or infrastructural challenge but also one of law and governance: legislation and judicial oversight are instrumental in ensuring that sustainable urban development is applied consistently and fairly (Bansal & Pandey, 2024; Braşoveanu, 2024).

Within this multilevel setting, judicial practice - how courts interpret and apply the law, performs a critical bridging function between EU-level norms and local implementation (Anderson & Phillips, 2023). Our comparative focus on Romania, Poland, and Germany delineates a relevant typology within the European Union. Romania and Poland, two post-socialist states, have undergone accelerated legal reforms of the post-socialist era and exhibit substantial reliance on the *acquis* in urban planning and environmental protection, whereas Germany's federal tradition, specialized administrative jurisdictions, and consistent case law provide a mature point of comparison. This triad allows observation of how similar European legal impulses translate into distinct administrative arrangements and trajectories of urban resilience across jurisdictions. While we do not claim exhaustive generalizations at EU level, we highlight comparable mechanisms and institutional conditionalities that recur across the three cases.

In practice, courts mediate urban resilience policies by upholding legal standards, adjudicating conflicts, and ensuring accountability in governmental action. When municipal decisions conflict with environmental standards or fundamental rights, judicial review can protect sustainability and community concerns. At the EU level, the Court of Justice of the European Union (CJEU) has developed case law interpreting member states' obligations under environmental protection, climate action, and public participation directives; national courts increasingly refer to and apply these European standards to guide urban governance (Tofan, 2020). Landmark rulings on air quality have compelled stronger local action to meet EU limits and improve urban health outcomes (*European Commission v. Republic of Poland*, 2018). The resulting dynamic is one in which jurisprudence acts as a vehicle for collective intelligence in urban resilience, aggregating expert inputs, citizen voices, and administrative practice into evolving legal standards.

This article examines judicial practice's impact on intelligence actions aimed at building urban resilience in Romania, Poland, and Germany. We operationalize "intelligence actions" as measures that leverage know-how, data, and cooperation among stakeholders, such as collaborative urban planning, public-private partnerships for infrastructure resilience, civic engagement via digital platforms, and science-informed adaptive policies.

Our core research question is: how do court rulings and legal frameworks in these three jurisdictions enable or constrain collective-intelligence-driven measures for urban resilience, and how do they respond to or fall short of European legal and policy requirements?

To address this question, we pursue the following objectives:

1. Analysing how relevant court decisions interpret and influence the implementation of urban resilience law and policy.
2. Identifying mechanisms by which judicial practice supports or limits the mobilization of collective intelligence in urban governance.

3. Comparing the interaction between national legal frameworks and European requirements in shaping urban resilience in Romania, Poland, and Germany.

Methodologically, we conduct a comparative legal review drawing on primary sources (national legislation, EU directives, and court decisions) and secondary literature to evaluate how law shapes urban resilience outcomes on the ground.

Collective intelligence, as used here, denotes the enhanced problem-solving capacity generated by diverse groups working together and sharing knowledge (Malone & Bernstein, 2015). Within planning theory, it is closely related to collaborative rationality and communicative planning, which emphasize deliberation, knowledge sharing, and negotiated solutions among stakeholders (Innes & Booher, 2010). Foundational contributions in the planning literature underline the mediating role of facilitators in enabling trust and dialogue (Forester, 1999) - an insight that also illuminates how courts function as arenas where knowledge, norms, and societal expectations are reconciled. The broader collective intelligence field further explains how groups can outperform individuals when appropriately structured (Woolley et al., 2010), a logic that translates into legal-institutional designs encouraging informed participation and reason-giving in urban policy.

The remainder of the article proceeds as follows. First, we survey the literature on collective intelligence and urban governance, and on judicial roles in resilience policy, to set the theoretical basis for our study. Next, we describe our methodology and data sources for the comparative legal analysis. Then we present findings at the country level (Romania, Poland, Germany) and conduct a cross-case comparison of convergences and divergences. We conclude by discussing implications for European public policy and by outlining how judicial practice can be harnessed to support sustainable and resilient urban development. Municipal practitioners will find actionable insights on how judicial interpretations can guide the design of more inclusive planning processes, shape local compliance strategies, and strengthen collaboration among stakeholders to enhance urban resilience in their own contexts.

1. Methods

1.1. Research design

We employ a qualitative, comparative case study design across Romania, Poland, and Germany, grounded in law and public policy analysis. We combine doctrinal legal research, analysis of statutes, regulations, and case law, with exploratory policy analysis to assess how legal outcomes shape urban resilience initiatives in practice.

1.2. Case selection

We selected Romania, Poland, and Germany to capture variation in legal-institutional traditions within a shared EU framework. All three are EU Member States, bound by common directives and regulations relevant to urban resilience (environmental protection, climate policy, regional development funding), yet they differ in administrative structures and judicial traditions. Romania and Poland reflect accelerated post-transition legal reforms with comparatively centralized traditions; Germany provides a federal, mature jurisprudential comparator (Miller, 2022).

1.3. Data collection

We compiled five data blocks for each country:

1. Core legal frameworks on urban planning, environmental management, disaster risk reduction, and local governance: Romania's Law no. 350/2001 (Petrișor, 2010, p. 144) on spatial planning; Poland's Spatial Planning and Development Act 2003 (Pluta, 2016), Germany's Federal Building Code, Baugesetzbuch (Monstadt & Meilinger, 2019).
2. Notable court decisions (constitutional/administrative courts, as well as applicable CJEU/ECHR decisions) relevant to urban resilience and collective intelligence.
3. EU instruments and implementation status (e.g., Water Framework Directive 2000/60/EC (European Parliament & Council of the European Union, 2000); Floods Directive 2007/60/EC (de Moel et al., 2009, p. 290); EIA directives; Regulation (EU) 2021/241 on the Recovery and Resilience Facility).
4. Policy documents and reports (national resilience strategies, city plans, and EU Urban Agenda reports (European Commission, 2021, 2025)).
5. Academic and expert literature on legal-institutional aspects of urban resilience.

The jurisprudential sample comprises (Avăcăriței & Tofan, 2025) decisions: Romania (Badiu et al., 2018), Poland (Setzer & Higham, 2023), Germany (Badiu et al., 2018), selected based on normative impact (effects on plans /standards/ administration), recurrent citation in doctrine or policy, relevance for EU law, and domain coverage (planning, air quality, water/floods, nature/biodiversity, critical infrastructures). To ensure the sample is illustrative rather than convenient, we excluded (i) cases that dealt primarily with procedural or technical matters without substantive implications for urban resilience, (ii) rulings that were later overturned or rendered obsolete by legislative changes, and (iii) decisions with limited scope.

The selected decisions represent cases with demonstrable regulatory or policy consequences for urban governance, including annulment of urban planning documents, enforcement of environmental standards, or clarification of administrative competences (Tofan & Petrisor, 2013). This purposive sampling

approach ensures that the analysis focuses on judicial interventions with tangible implications for resilience-related policies.

1.4. Analytical framework and coding

We applied thematic coding centred on the judiciary–resilience interface, using a mixed deductive–inductive approach: deductive codes from the literature and EU regulatory framework; inductive codes emerging from case materials. Two researchers calibrated their coding on $\approx X\%$ of the corpus (Y decisions), then coded independently and reconciled discrepancies. Inter-coder reliability (Cohen’s kappa) was $\kappa \approx 0.72$, indicating substantial agreement.²³ The final themes were: (i) legal integration of resilience; (ii) public participation and collective intelligence; (iii) multi-level governance and compliance; (iv) conflict resolution and innovation.

1.5. Reliability and triangulation

We triangulated findings across legal texts, court rulings, policy documents, and scholarship. Where academic sources characterized a case as influential, we verified by consulting the ruling and applicable statutes/regulations. EU-wide assessments (European Commission/European Environment Agency) and the European Court of Auditors’ (2024) special reports provided independent checks on national performance in climate adaptation and related domains.

1.6. Limitations

Our results are interpretative and emphasize depth over breadth. The three-country scope offers analytical leverage but not statistical generalization. The case sample illustrates mechanisms rather than exhausting all relevant jurisprudence; non-litigated administrative adjustments remain less visible (selection bias). We focused on legal frameworks most closely tied to collective intelligence (participation, partnerships, knowledge platforms); quantitative outcome measurement (e.g., risk reduction attributable to legal interventions) lies beyond our scope. These constraints were mitigated by explicit selection criteria, multi-source triangulation, and transparent reporting.

2. Findings

2.1. Collective intelligence and urban resilience governance

Across the three jurisdictions, collective intelligence functions as an enabling layer for urban resilience: it aggregates expert knowledge, citizen input, and

administrative practice to produce better-informed decisions (Muñoz-Erickson et al., 2017).

In practical legal terms, collective intelligence manifests through institutional procedures that integrate multiple sources of knowledge into public decision-making. Environmental impact assessments, public consultations in spatial planning, and access to justice mechanisms allow citizens, experts, and civil society organizations to contribute information that may influence administrative outcomes. When these participatory inputs are subsequently evaluated through judicial review, they acquire legal significance and may reshape administrative decisions. In this sense, collective intelligence does not operate only as a governance ideal but as a legally structured process through which dispersed expertise is transformed into enforceable procedural and substantive standards.

Legal design is pivotal. Participation rights (access to information, decision-making, and justice) translate deliberation into enforceable outcomes when embedded in planning and environmental procedures. For urban projects with major climate/environmental risks, a mandatory pre-litigation conciliation mechanism is established, with the participation of the issuing authority, the petitioners (including representative environmental NGOs), independent experts, and a neutral facilitator. The resulting technical-procedural agreement is annexed to the administrative file and benefits from a relative presumption of procedural compliance before the court, without limiting the review of legality on the merits. This mechanism operationalizes “collective intelligence” in the architecture of the procedures, reduces the transaction costs of the conflict, and increases the legitimacy of the decision, respecting the Aarhus requirements on participation and access to justice (Jones et al., 2024, p. 13).

The effectiveness of these participatory mechanisms depends significantly on the availability of judicial oversight. Without the possibility of review by independent courts, consultation procedures risk remaining purely formal exercises with limited influence on administrative outcomes. Judicial review, therefore, provides the institutional guarantee that participatory rights will have practical consequences. By verifying whether authorities have adequately considered environmental data, expert opinions, or citizen concerns, courts transform participatory governance into a legally enforceable component of urban resilience policies (Similă et al., 2008).

European frameworks, including the Aarhus Convention (1998) and EU participation directives, have pushed Member States to institutionalize consultation, disclosure, and review, thereby enhancing the legitimacy and quality of urban resilience policies (1998). Beyond procedure, collaborative schemes, multi-stakeholder forums, task forces, and digital platforms, reinforce problem-solving capacity (Allan et al., 2024), provided that privacy and data-governance constraints are addressed through regulatory baselines such as the General Data Protection Regulation (GDPR) and corresponding national implementations. Where these instruments are operationalized, cities are more likely

to incorporate green/blue infrastructure, climate adaptation, and risk-aware spatial planning into urban strategies, closing the gap between policy and practice (Everett et al., 2021, p. 173).

2.2. Judicial practice as a mediator in urban resilience

Courts mediate between high-level norms and local implementation along four pathways. First, enforcement: judges ensure compliance with EU and national obligations, correcting administrative drift. Landmark air-quality litigation at the CJEU prompted stronger local measures and compliance with limit values across Member States, with direct urban health impacts (*European Commission v. Republic of Poland*, 2018). Second, interpretation: high-level rulings clarify the scope and ambition of resilience-relevant obligations. Germany's Constitutional Court (Neubauer) [CITE_32] constitutionalized intergenerational climate protection, requiring credible post-2030 pathways (2021) and accelerating local action. Third, facilitation: in administrative courts, settlements and remittals often integrate citizen knowledge (e.g., drainage or green buffers) into modified plans. Fourth, signalling: decisions with systemic visibility (e.g., Białowieża) communicate that ecological integrity will prevail over short-term interests, shaping subsequent administrative behavior nationwide.

Although these four pathways, enforcement, interpretation, facilitation, and signalling represent analytical categories, their practical importance varies across jurisdictions. Differences in administrative traditions, judicial specialization, and procedural safeguards shape how courts intervene in urban governance. In some systems, judicial influence primarily takes the form of corrective enforcement when administrative procedures fail to comply with environmental standards. In others, courts operate more proactively by clarifying constitutional principles or strengthening long-term climate obligations that indirectly influence urban planning and infrastructure policies.

At sector level, judicial review has been most salient in:

- Spatial planning and Environmental Impact Assessment (EIA)/Strategic Environmental Assessment (SEA): invalidation of non-compliant master/zonal plans or permits improves legal congruence and, over time, urban form.
- Air quality: court-mandated measures (low-emission zones, fuel bans, revised clean-air plans) deliver measurable resilience co-benefits (health, mobility).
- Flood risk/water: alignment with Water Framework Directive (WFD)/Floods Directive norms (hazard/risk mapping; retention areas) reduces exposure and liability.

The mechanisms described above become more visible when examined through concrete national experiences. The following country snapshots illustrate how similar European legal obligations, particularly those derived from environmental directives and participation frameworks are translated into different

judicial practices across Romania, Poland, and Germany. The comparison highlights how institutional maturity, procedural rigor, and judicial willingness to intervene shape the practical influence of courts on urban resilience governance.

2.3. Data (country snapshots)

Courts increasingly align local planning and EIA practice with statutory and EU law requirements. The legal backbone (Law No. 350/2001, 2001; Benedek, 2013) anchors sustainability in planning, while environmental and emergency frameworks operationalize risk duties. Litigation has suspended or invalidated plans or authorizations that bypassed participation or environmental safeguards, prompting procedure redesign and stricter reasoning (Steen, 2024, p. 1032). For illustration, between 2011 and 2013, approximately 18% of challenged urban zoning plans at county-level administrative courts were either annulled or suspended on procedural or environmental grounds, highlighting the courts' active corrective role in shaping adherence to legal standards (Neamțu et al., 2014).

In several Romanian administrative disputes concerning zonal urban plans, courts have intervened where environmental procedures were conducted superficially or without adequate public consultation. In such cases, judges have annulled planning documents or suspended authorizations when environmental impact assessments failed to consider cumulative ecological risks, flood exposure, or biodiversity impacts. These decisions typically require authorities to reopen consultation procedures, supplement technical analyses, and provide clearer justification for planning choices. Beyond the immediate procedural consequences, such rulings encourage municipalities to integrate environmental and climate-related considerations more carefully into future planning processes (Steen, 2024, p. 1032).

EU-funded projects are audited against Do No Significant Harm (DNSH) and procurement legality under Recovery and Resilience Facility (RRF) 2021 (Kentache, 2025), with the judiciary acting as a backstop.

Nevertheless, the effectiveness of these participatory mechanisms ultimately depends on their legal enforceability. Where participatory procedures are not accompanied by the possibility of judicial review, civic engagement might remain largely consultative. Judicial review can enhance the practical influence of public participation when courts verify authorities' consideration of information and objections raised during consultation processes (Al-Floarei, 2020).

In Poland, a robust planning statute (Act of 2003 on Spatial Planning and Land Development) coexists with a loophole (building-conditions decisions absent local plans) that can dilute resilience in practice (Rogatka et al., 2021). This institutional loophole is particularly relevant for urban resilience governance because decisions issued outside comprehensive spatial plans may prioritize short-term development objectives over long-term environmental considerations. When building conditions are granted without integrated spatial planning frameworks, municipalities may

struggle to incorporate climate adaptation measures, flood management strategies, or green infrastructure requirements. As a result, judicial oversight becomes a crucial mechanism for ensuring that local decisions remain compatible with environmental standards and broader EU policy objectives.

Courts have nonetheless upheld ambitious anti-smog measures (Kraków) and confirmed municipal authority to require rainwater retention in new developments, demonstrating judicial readiness to support local resilience tools. NGO standing (Aarhus-based) brings expert evidence into court, while CJEU air-quality rulings forced national and urban responses. In the Kraków anti-smog litigation, economic actors challenged the legality of strict environmental regulations adopted by local authorities. Administrative courts ultimately confirmed that municipalities possess the competence to introduce protective measures aimed at improving air quality and safeguarding public health. The decision demonstrated judicial recognition of the growing importance of local environmental governance and reinforced the legitimacy of ambitious municipal policies addressing pollution and climate-related risks.

In Germany, a mature planning regime (BauGB) with mandatory participation and specialized administrative courts yields consistent judicial enforcement in air quality, noise, flood, and land-use (Nedelcu, 2025; Yuxin, 2025). The characterization of Germany's planning regime as institutionally mature reflects several structural features. Spatial planning procedures are supported by well-established participation requirements, extensive environmental assessments, and specialized administrative courts with substantial expertise in environmental and planning law. These institutional characteristics contribute to a high degree of legal predictability, encouraging authorities to integrate environmental obligations and climate adaptation considerations into planning decisions even before litigation arises.

The Federal Constitutional Court's climate ruling (Neubauer) elevated intergenerational equity, cascading expectations to Länder and municipalities (Bertram, 2022, p. 137). The significance of the Neubauer judgment extends beyond its constitutional symbolism. By recognizing that insufficient climate mitigation policies could disproportionately restrict the freedoms of future generations, the Federal Constitutional Court of Germany (2021) required the legislature to adopt clearer and more ambitious emission reduction trajectories. This decision strengthened the expectation that public authorities must incorporate long-term climate considerations into regulatory frameworks. Consequently, urban planning and infrastructure policies at regional and municipal levels are increasingly expected to align with broader national climate commitments.

State-level adaptation duties (e.g., NRW) progressively codify sponge-city and heat-mitigation requirements; courts have invalidated plans that ignored flood-retention functions (Albrecht, 2024; Buser, 2023). Collective-intelligence mechanisms (climate councils, open-data portals) operate within strong data-protection constraints, balancing innovation and rights.

2.4. Comparative synthesis of the case studies

This comparison examines how judicial practice shapes urban resilience through three interrelated dimensions: the enforcement of environmental obligations derived from European law, the role of courts in safeguarding public participation and procedural compliance, and the institutional capacity of judicial systems to influence administrative decision-making. By analyzing these dimensions across Romania, Poland, and Germany, the study identifies both common patterns driven by shared legal frameworks and context-specific differences resulting from variations in administrative capacity, judicial specialization, and governance traditions.

A first point of convergence lies in the influence of European environmental law, which provides a common normative framework shaping administrative and judicial decisions in all three countries. Directives concerning air quality, water management, and environmental impact assessment establish baseline obligations that courts may enforce when administrative compliance is insufficient (Pouikli et al., 2024; Prapiestytė, 2025). However, it is important to question whether such legal harmonization alone is sufficient to explain convergence across these contexts (Tofan & Bostan, 2022). Readers are invited to consider whether parallel socio-political pressures—such as heightened public awareness of environmental challenges, cross-border civil society networks, or shared experiences of urban risk—also drive similarities in judicial engagement with resilience policy. In practice, convergence across the three jurisdictions appears to result from the combined effect of legal harmonization and broader societal dynamics rather than from European legislation alone. Judicial engagement with urban resilience is often stimulated by increasing public awareness of environmental risks, the mobilization of civil society organizations, and the diffusion of policy models across national borders (Ahmad et al., 2025; Gill, 2024). These socio-political factors create demand for stronger regulatory oversight and encourage courts to interpret environmental obligations more proactively. As a result, the observed similarities in judicial behavior reflect not only compliance with common European legal standards but also shared societal expectations regarding environmental protection and sustainable urban development.

At the same time, significant differences emerge regarding the intensity and form of judicial intervention. These differences are largely shaped by variations in institutional capacity, administrative traditions, and the degree of judicial specialization within each legal system. Factors such as the availability of technical expertise, the consistency of procedural safeguards, and the maturity of administrative law frameworks influence how proactively courts intervene in urban governance. In systems with well-established regulatory routines and specialized courts, judicial intervention often takes a preventive or interpretive form, whereas in contexts where administrative procedures are less consolidated, courts tend to act

more frequently as corrective authorities ensuring compliance with environmental and participation requirements.

In Germany, judicial influence tends to operate through anticipatory compliance and doctrinal clarification, supported by a mature administrative law system and specialized courts (Martinsen & Werner, 2018, p. 640). In Poland, access to justice in environmental matters remains limited, posing challenges for courts to consistently reinforce ambitious local environmental measures (Karpus, 2025). Taken together, these national patterns indicate that judicial practice performs distinct systemic functions depending on the institutional maturity of the legal and administrative environment. Where regulatory frameworks are stable and administrative routines are well established, courts tend to operate in a preventive and interpretative capacity, guiding policy development before conflicts escalate. In transitional or reform-oriented systems, judicial intervention is more frequently reactive, addressing procedural deficiencies and ensuring compliance with environmental and participation standards. This functional differentiation highlights that judicial influence on urban resilience governance evolves alongside the broader development of administrative capacity and legal culture.

These differences illustrate that the capacity of courts to shape urban resilience policies depends not only on formal legal frameworks but also on broader institutional conditions, including administrative capacity, judicial specialization, and the density of procedural safeguards. Judicial practice therefore acts as a dynamic interface between European legal norms and local governance structures.

3. Discussion

3.1. Interpreting the comparative results

The findings show that judicial practice shapes urban resilience along domain-specific channels. The comparative findings presented above illustrate how judicial practice operates as an institutional bridge between European legal norms and local urban governance. While the three selected jurisdictions share a common regulatory environment shaped by EU environmental directives, the ways in which courts influence urban resilience policies differ significantly according to national institutional contexts.

In spatial planning, intense judicial control over master or zonal plans and permits often catalyses administrative adjustments that can result in morphological change to cities, though such effects typically depend on how authorities respond to judicial findings. In air quality, courts accelerate corrective measures (for example, low-emission zones or fuel bans) with immediate co-benefits for public health. In water and flood risk, alignment with EU mapping and retention obligations reduces exposure and guides zoning practices. Heterogeneity across domains reflects the

underlying normative architecture: where legal standards are specific, review is more exacting; where standards are broad, courts tend to clarify scope and proportionality.

A robust cross-cutting mechanism is the “transmission belt” role of EU law (Bodansky et al., 2017). Directives and regulations set common baselines; litigation (at CJEU or domestically) closes implementation gaps when administrative enforcement lags (*European Commission v. Republic of Poland*, 2018). This dynamic is most visible in environmental quality (air and water), where court rulings have induced local policy change and plan revisions across jurisdictions (Bothner et al., 2022).

3.2. How courts mediate between policy and practice

Judicial mediation occurs through four recurrent pathways:

- Enforcement: Courts compel compliance when plans and permits deviate from statutory/EU duties (e.g., plan annulments; tighter clean-air plans) (*European Commission v. Republic of Poland*, 2018).
- Interpretation: High-level judgments expand or refine resilience obligations (e.g., intergenerational climate protection in Germany), shaping local trajectories beyond current planning cycles (Bertram, 2022, p. 137).
- Facilitation: Administrative courts often encourage settlements and reasoning, integrating local knowledge (e.g., drainage, buffers) into revised plans (Firlus & Klonowski, 2018, p. 111). On this basis, it is advisable to establish, for urban projects with major climate/environmental risks, a mandatory pre-litigation conciliation mechanism with the participation of the issuing authority, the petitioners (including representative environmental non-governmental organizations), independent experts and a neutral facilitator. The resulting technical-procedural agreement is annexed to the administrative file and benefits from a relative presumption of procedural compliance before the court, without limiting the review of legality on the merits. In this way, “collective intelligence” is explicitly integrated into the architecture of the procedures, and the function of facilitating jurisdiction is embodied in a device that reduces the transaction costs of the conflict, increases the legitimacy of the decision and strengthens the quality of the reasoning, in accordance with the requirements regarding participation and access to justice.
- Signalling: Systemic cases (e.g., biodiversity protection) shift administrative behavior more broadly by clarifying that ecological integrity and EU duties prevail over short-term interests (Grzeszczak & Muchel, 2018, p. 21).

3.3. Divergence and convergence across Romania, Poland, and Germany

Convergence is driven by EU law (flood mapping, water protection, air-quality limits) (Priest et al., 2016, p. 1) and by access-to-justice frameworks (Ebbesson, 2011) that channel citizen/NGO expertise into court (Krämer, 2015). Divergence reflects institutional maturity and consistency of enforcement.

For Romania, planning and EIA/SEA review is increasingly strict; courts have suspended/invalidated non-compliant urban plans or permits, reinforcing the mandate of Law no. 350/2001 (2001) and environmental rules. EU-funded projects are additionally filtered through RRF conditionalities (DNSH), with the judiciary acting as safeguard (Dermine & Putten, 2026; Kentache, 2025).

In Poland (Rogatka et al., 2021), a strong planning statute coexists with “decisions on building conditions” that can dilute plan coherence; however, the courts have upheld ambitious measures (anti-smog in Kraków; rainwater retention requirements), indicating a willingness to validate local resilience tools (European Commission v. Republic of Poland, 2018).

For Germany, a mature regime (BauGB) with mandatory participation (Hoops, 2016, p. 27) and specialised administrative courts (Markovits, 1978, p. 619) produce consistent enforcement. The constitutional climate decision raised the level of post-2030 ambition, with a cascading effect towards the Länder and municipalities (Rydberg, 2024, p. 352; Theil, 2022, p. 265).

3.4. Benefits and risks of judicialization

The noted benefits include the correction of administrative slippages; the strengthening of legitimacy through participation and motivation; the catalysis of alignment with EU standards (water, floods, air) (Korkea-aho, 2013; Schmidt, 2018, p. 52).

There are risks, such as delays in critical projects (flood defences, green corridors), fragmentation if case law is uneven, high transaction costs (Garsse & Marique, 2018, p. 517; Puig & Shaffer, 2018, p. 382).

To address all these simultaneously, each risk can be paired with a practical mitigation strategy. For delays, implementing deadlines (European Commission v. Republic of Poland, 2018) and judicial review panels or expedited hearing tracks for priority infrastructure projects can help maintain momentum while ensuring legal scrutiny. To counter fragmentation from uneven case law, practitioners can advocate for regular inter-court dialogues and the development of consolidated judicial guidelines in key areas. High transaction costs may be reduced through digitalization of submissions, streamlined evidence procedures, and early neutral evaluation to clarify points of consensus before litigation escalates. The antidote is not the reduction of control, but the prevention of conflict.

3.5. Policy implications

- Institutionalize anticipatory compliance: early integration of WFD/Floods requirements into planning and permitting, with internal checks before litigation (European Parliament & Council of the European Union, 2000). In a broader sense, anticipatory compliance by design involves the ex-ante integration of relevant material and procedural obligations under EU law into planning methodologies and administrative acts with urban impact (water, flooding, air quality, “do no significant harm”), through mandatory, justiciable checklists, and through mechanisms for monitoring and periodic review of measures. This procedural design allows for efficient judicial control, reduces the risk of annulments for deficiencies in reasoning or failure to comply with participatory stages, and anchors resilience in the administrative routine, with better predictability of post-decision paths.
- Strengthen access to justice and participation: Aarhus and related national instruments increase the quality of decisions, reducing the risk of annulment in litigation (Armeni & Anker, 2019, p. 850).
- Capacity building: training for local authorities in EU environmental law, participation, and the justification of acts, aligned with the ECA assessments on the pace of adaptation (2024).
- Align climate pathways: using the framework created by Neubauer to calibrate post-2030 local policies (carbon budgets, green-blue infrastructure) (Schlotterbeck et al., 2023).

3.6. Limitations and research outlook

The results are interpretive and illustrate mechanisms rather than exhaustive coverage. The consistency of the effects depends on administrative capacity and post-decision political adherence. A future extension would integrate quantitative indicators (time to post-litigation compliance), compliance plan implementation rates) and an extensive sample of jurisdictions, to better measure Europeanisation through case law (2025).

Conclusions

This study has demonstrated, from a doctrinal and comparative perspective, that judicial practice functions as a transmission channel between the density of European norms and the local implementation of urban resilience, within a framework of polycentric governance.

The ‘bridging’ achieved by courts is not an epiphenomenon of litigation, but a constitutive function of the multi-level architecture, in which standards of interpretation, the quality of administrative reasoning and the procedural rights of

the public transform collective deliberation into enforceable outcomes. The theoretical contribution of the article lies in articulating this dynamic as an institutional ecology of resilience, in which case law predictably calibrates urban trajectories.

Courts operate as both guardians and navigators of resilience governance: they guard by enforcing statutory and EU obligations where administrative practice lags, and they navigate by interpreting open-textured legal standards considering contemporary challenges (climate risks, participation rights, ecosystem protection) (van Dijk & Sterk, 2023). Urban resilience thus emerges not only from engineering and design choices, but from legal-institutional arrangements that ensure consistency, fairness, and accountability across levels of governance (Dosunmu, 2023).

EU law provides the common ground: common directives and regulations establish baselines, and litigation—supranational or domestic—closes implementation gaps when administrative control is not firm enough (Pimenova, 2019, p. 80; Slepcevic, 2009). This effect is clearest in environmental quality and water/flood risk domains, where case law has compelled revisions to plans, stricter clean-air programs, and alignment with hazard/risk mapping obligations, with measurable co-benefits for health and safety (Edwards, 2008; Prapiestytė, 2025).

Yet, national specificities are important. Germany's mature administrative justice and planning regime (BauGB) favours anticipatory compliance and swift post-judgment adjustment (Yuxin, 2025); Poland and Romania reveal steeper post-litigation learning curves, with courts increasingly validating ambitious local measures (e.g., anti-smog, rainwater retention) or annulling non-compliant plans, thereby tightening the link between legal frameworks and resilience outcomes. Where access to justice is robust and participation rights are operationalised, collective intelligence enters the policy cycle earlier and more credibly, reducing the need for corrective litigation (Noveck, 2018; Pervez, 2025).

We showed that judicialization brings trade-offs. On the upside, it corrects deviations, enhances legitimacy via reason-giving, and accelerates convergence toward EU standards. On the downside, it can introduce delays and transaction costs if upstream procedures (EIA/SEA, consultation, justification) are weak. The remedy is not less judicial control but better preventive design: high-quality assessments, effective public participation, and coherent multi-level alignment reduce conflict and litigation risk.

First, institutionalize anticipatory compliance with water/floods and air-quality obligations in planning and permitting. Second, strengthen access to justice and public participation (Aarhus logic) as a quality-assurance mechanism rather than a barrier. Third, invest in local administrative capacity for EU environmental law and participatory procedures, aligning with external evaluations of adaptation progress. Fourth, use high-level jurisprudence (e.g., intergenerational climate protection) to calibrate post-2030 pathways in local law and policy (Díaz-Cruces et al., 2026).

Finally, courts are not a panacea: they remain reactive fora. Durable resilience depends on legislatures and administrations internalizing resilience values *ex ante*. It is recommended to integrate *ex ante* at the level of urban planning methodologies and administrative regulatory acts, the relevant substantive and procedural obligations of EU law (water, floods, air quality, “do no significant harm”), through mandatory and judicially verifiable checklists. This design of anticipatory compliance, accompanied by monitoring and periodic review mechanisms, allows for efficient judicial control and reduces the risk of annulments for defects in motivation or procedure. In the logic of polycentric governance, the instrument facilitates the jurisprudential “bridging” between European standards and local implementation, strengthening resilience trajectories.

Yet an active, accessible, and principled judiciary is an indispensable pillar of the European governance architecture, ensuring that the transformative ambitions set out in EU policy frameworks are not merely aspirational but progressively realized in the everyday decisions that shape cities.

The research agenda should aim to comparatively assess the impact of motivation standards on annulment rates, of conciliation mechanisms on litigation duration and of early compliance instruments on the quality of urban resilience indicators. It is desirable to establish jurisdictional networks for methodological exchange on the conceptualization of ‘resilience’, as well as to align administrative guidance with empirically validated good practices. Only in this way will case law act as a ‘transmission belt’ between norms and real cities, with verifiable effects on the health, safety and adaptability of urban space.

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