

# **Land Readjustment as a tool for Urban Development in Greece: the implementation gap between Laws, Policies and Practice.**

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## **SUMMARY**

Land Readjustment (LR), as a tool for urban development, was implemented initially in Greece, at the beginning of the 20th century, indicating thus a rapid response of the planning community to the quest for a more efficient land acquisition tool, quite at the same period as in other European countries. A few years later, specific legal provisions for the use of LR to the implementation of town plans (Ktimatikes Omades) were incorporated in the Law Decree of July 17, 1923. However, the implementation of LR was very limited compared to other traditional tools, such as expropriation, and was restricted to a few cases, mainly when there was an urgent need for the implementation of town plans after extensive disasters i.e. bombings, fires and earthquakes.

A new form of Land Readjustment, apparently influenced from the relevant French institution of “Remembrement Urbaine” and the German “Baulandumlegung”, was legislated in the late ‘70s, in the context of the Planning Reform that took place following the Greek Constitution in 1975 (Article 24). However, its application has been once again limited to a few cases. In view of the above, a fundamental research question apparently arises: which are the predominant factors that determined the limited implementation of Land Readjustment in Greece? How LR is related to other innovative ideas, tools and practices which have been transposed in the domestic planning system fundamentally influenced by foreign experience?

The paper aspires to present the Greek experience in Land Readjustment, providing an analytical overview of its basic characteristics (legal framework, related policies and applications). It seeks further to shed light into the implementation gap between laws, policies and practice of LR, to discuss how the application of LR is related to the basic features of the land administration and spatial planning system in Greece and to investigate its prospects, with regard to the current challenges of Spatial and Land policies in the country.

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## **Introduction**

One of the main problems that usually arise in the urban development process stems from the existing plot boundaries which are considered as a serious impediment to the optimum urban planning of an area. In addition, the cost for the equipment of the area with the basic urban infrastructure and public facilities is one of the key issues that often public and local authorities have to overcome during the urban or redevelopment process. Land Readjustment (LR) is an urban development technique which addresses sufficiently the aforementioned issues, compared to other conventional land policy mechanisms such as the land acquisition by agreement, compulsory purchase, eminent domain, land banking etc. Among its benefits are the fair distribution of the capital gains from the development process and the maintaining of the existing social structure in the development area, since proprietors are not forced to separate from their land. In the readjustment process, the parcels of land are notionally assembled in one plot, where joint owners have a share according to the acreage of the property owned by each or according to the value of the land owned before the procedure began (FIG, 2009). Following, the boundaries of the irregular and fragmented initial land plots are rearranged into regular building plots, according to the provisions of a Detailed Local Plan (Town Plan or Statutory Plan) and are redistributed back to the initial proprietors. A percentage of each landowner's property is given as land for public facilities (*e.g. roads, parks, schools or other community uses*) while the infrastructure's costs are covered either by the sale of land or by monetary contributions from the proprietors.

Land Readjustment draws its origin from the land consolidation in rural areas, though its first implementation in urban areas is referred in Frankfurt in 1902 with Lex Adickes (Dieterich, 1985). In several countries (e.g. Germany, Japan, and Southeast Asian countries) Land Readjustment has been extensively used for the reconstruction of cities after the Second World War and during the period of rapid urbanization in the '60s and '70s, while in some of these countries it is still used successfully for urban renewal, as an alternative option to the eminent domain. The topic of Land Readjustment has been investigated efficiently in the international literature (Doebele, 1982, Hong, Needam, 2007, Larsson, 1993, Minerbi, 1986). However, the current paper aspires to enrich the relevant literature with the Greek experience on Land Readjustment, providing an analytical overview of the corresponding legal framework, the related policies and its respective application.

## **1. The context: Land and Spatial Planning Policies in Greece**

Greek Land Policy has undergone significant changes throughout the country's history; however, one of its important features, which goes back to the formation of the contemporary Greek State, is argued to be the systematic promotion of measures which favored the land fragmentation and the small proprietorship (Vergopoulos, 1975, Mantouvalou et.al., 1994). On the other hand, urban planning and its associated legislation has been viewed as a means for the modernization and Europeanization of the country, strongly influenced by western European urban doctrines, though without necessarily being compatible with the domestic

socioeconomic conditions, whereas their most innovative elements have been impeded by multiple interests around small landownership (Mantouvalou 1988, Prevelakis, 2016). In addition, it is argued that the land policy mechanisms to support the implementation of town planning are inefficient, due to inadequacies pertaining to the philosophy and conception of the domestic Land Policy, to the absence of specific mechanisms and to technical deficiencies of the existing mechanisms and institutional framework (Economou, 1999).

In particular, the importance of the creation of “*a people of proprietors*” as a prerequisite for the constitution of the Modern Greek State was supported by the first governor of Greece Ioannis Kapodistrias, after the War of Independence, in 1828<sup>1</sup>. The formation of land ownership was considered as the “*only healthy basis of the national economic policy which could contribute to the creation of a population of happy people by allowing them to exchange the status of the tenant-farmer with the dignified title of the proprietor*”<sup>2</sup>. Indeed, in 1830 the Greek State was the main landholder in the territory possessing approximately 35-50% of the croplands of the new established Hellenic Kingdom. (Patronis, 2010). From 1834 until 1938, a total of 1.374.971 ha were distributed to Greek peasants (Sakellaropoulos, 1991), initially as a reward for their participation in the War of Independence. Later, the distribution of land by the Greek State was used as a means to boost the farming sector with the agrarian reform that took place in 1917 and to cover the urgent housing needs arisen by the rehabilitation of 1.5 million refugees who had evacuated the Minor Asia after the catastrophe of the Greek-Turkish War in 1922. The land tenure conditions of the agrarian land were inevitably conveyed to urban land during the urbanization wave in Greece at the beginning of the 20<sup>th</sup> century and the consequent gradual expansion of the cities. In addition, a secondary land market and mode of housing production made its appearance to satisfy the newly-emerged housing needs of the rapidly urbanized population based on “semi-squatting”<sup>3</sup> of the urban fringe and on illegal development. However, formal planning policies not only tolerated the illegal subdivision of land and semi-squatting, but, at almost regular intervals, entire areas of unauthorized settlements were incorporated in the Town Plan (the so-called ‘extensions of Town Plans’), which resulted in property values increasing manifold. Illegal development covered a considerable part of the housing needs of people who were near the poverty threshold, substituting for a social policy for housing. Lack of adequate social policy also in the domains of education, health and welfare led popular strata to acquire more than one urban piece of property, as a hedge for the future (Mantouvalou et al., 1994).

In the same period Greek planning policy was dominated by issues of physical planning focusing mainly on the interface between private ownership and public space and landowners’ development rights as well (Giannakourou, 2011, EC,2000). The main legislative framework was the Law Decree of July, 17 1923 for the planning of cities, towns and communes which introduced the fundamental distinction of public and private lands into areas either ‘within-the plan’<sup>4</sup> (*entos sxediou*) or “out of plan” (*ektos sxediou*) areas. However, whereas the Statutory

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<sup>1</sup> “*The Greek people, who today are a mass of landless (Prolétaires), should be ‘upgraded’ to a people of proprietors. And when that objective would be achieved, then the constitutional organization of Greece would be not only possible, but easy as well*”, “Treatise on the situation of Greece”, addressed by Ioannis Kapodistrias in November 1830 to Michael Soutsos, diplomatic representative of Greece abroad.

<sup>2</sup> Minister responsible for the Economic Affairs (Government Gazette 20, 16<sup>th</sup> December 1835, Appendix), History of the Greek Nation, Volume IC, pg.59

<sup>3</sup> Land was acquired and held legally but was illegally used for residential purposes, hence “semi-squatted”.

<sup>4</sup> The plan in this context, is the official town plan or detailed local plan (‘schedio poleos’, scale 1:500 or 1:1000) which determines the street alignments (rymotomikes grammes), building lines (oikodomikes grammes), land use designations and is accompanied by a statement of building conditions (oroi domisis). These conditions

Plan was the planning instrument for the determination of land uses in “within the plan” areas from 1923 to 1983, there wasn’t any appropriate planning tool for the development control and the designation of land uses in the ‘*out of plan*’ areas.

In 1975 the restoration of Democracy in the country led to a new Constitution which signaled a major reform in the Greek Planning Policy towards to the adoption of new planning instruments. Specifically, the new Constitution provided for the protection of the natural, cultural and built environment and urban renewal (Article 24), the strengthening of the social role of landownership (Article 17) and social housing (Article 21 par.4). Nonetheless, the reforming endeavor that the new constitutional rules triggered towards a more active and interventionist role of the State to housing market and to land ownership remained meteor due to various political, economic and corporatist interests which were shielding various aspects of the traditional land development model. In addition, the reforming spirit was somehow obsoleted since it was fundamentally influenced by western European urban paradigms evolved in different socioeconomic context and historical periods, while yet there was inadequate understanding of the needs to be addressed. In 1981, the first socialist government elected in Greece brought various reforms in several fields of state policies, among which was the planning system too (ISOCARP, 2002). Indeed, in 1983 a new planning law was legislated which gave priority to the provision of basic urban infrastructure to unauthorized settlements located in the urban fringe. In the 1990s and 2000s a shift occurred towards a more strategic and development-oriented spatial approach that could ameliorate the country’s attractiveness and competitiveness in the context of European integration and globalization (Giannakourou, 2011). Even though new elements emerged in this period, the dominant post-war land development model in Greece remained stable and coherent since its fundamental features had not been drastically threatened. Old and new domestic actors (i.e. small-landowners and large size construction and real estate companies) remained in a noticeable balance profiting from the gains produced in the period of credit expansion and public spending (Mantouvalou, Balla, 2004). Since 2010, the most serious financial and economic crisis the country has been facing in its modern history was the catalyst to accelerate a significant number of structural reforms for the country's economic recovery. The Land Administration and the Spatial Planning system are at the core of legislative initiatives that have been taken to facilitate private investments and to create a business friendly environment. The planning system underwent a new reform in 2014<sup>5</sup> aiming at reducing planning barriers for business development and creating more scope for private initiatives, whereas the pace for the completion of the National Cadastre has been accelerated with the imposition of a specific deadline for its completion, i.e. 2020. In addition, several new planning instruments have been lately introduced with the aim of enabling development on public and private land<sup>6</sup> in view of facilitation of the privatization programme and private investments. Overall, the Greek Land and Spatial Planning System, which has functioned as a kind of ‘exception’ compared to the dominant post-war European model, and remained extremely stable and coherent in the past, currently receives significant pressures and it seems to be in a transformation process.

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include minimum plot size and plot dimensions, maximum plot ratios, and the crucial floor-area ratio (syntelestis domisis) (EC, 2000:51).

<sup>5</sup> Law 4269/2014 “Spatial Planning Reform”

<sup>6</sup> Law 3894/2010 for the Strategic Investments and Law 3986/2011 for the privatization and exploitation of public property.

## 2. The early implementation of Land Readjustment in Greece

An early form of Land Readjustment was attempted initially in Greece in 1914 with Law 455/1914 for the reconstruction of the Serres town center in Northern Greece after a devastating fire occurred by the Bulgarians on 28.6.1913. However, this law was never implemented, though its contribution to the evolution of the planning system in Greece is regarded as extremely important to the enrichment of the planning toolbox with the idea of land contribution from properties, as a reward to the benefits of the urban development process. Indeed, the idea of Land Readjustment was successfully implemented a few years later for the reconstruction of the Thessaloniki town center after the devastating fire of 1917 (Yerolympos, 1995). Law 1394/1918 for the implementation of the Town Plan as amended later with Law 2633/1921 provided for the creation of a land pool, i.e. 'Properties Group' (*Ktimatiki Omada*), the appraisal of properties' values before and after the readjustment process, and the transfer of the new building plots to the landowners.

A few years later following the successful implementation of Land Readjustment in Thessaloniki<sup>7</sup>, the tool was included in the Planning Law Decree of 1923, as an alternative option to expropriation for the implementation of Town Plans, aiming either at fairly distributing the financial surplus of the development process (Article 50) or at accelerating the implementation of the town plan in case of emergency like after natural or other cause disasters (Article 51). However, the dominant mechanism for the implementation of the Town Plans, according to the 1923 Decree was the boundaries' adjustment of plots to street layout through specific Administrative Acts (*Praxeis Analogismou-Apozimiosis*) which were drawn up for a single or a few building blocks, but not for the whole plan area. Furthermore, the necessary land for the creation of public spaces and facilities was acquired mainly through a mixed system of land contribution and expropriations<sup>8</sup>. This system of gradual implementation of town plan to the ground remained dominant for several decades in Greece and is still valid in the "urban core" of the existing cities, even though it proved to be insufficient and problematic<sup>9</sup>. The LR mechanism on the other hand, was argued to be more socially fair and therefore more suitable to efficiently cope with landowners' reactions to town planning implementation. Albeit, it was criticized as being, in most of the cases, arduous, demanding long lasting and cumbersome procedures and huge technical resources, while it had been considered as most appropriate for green fields without buildings (Grammatikopoulos, 1949). Therefore, LR according to the 1923 Decree was applied into only a few areas (e.g. Lixouri, Sami, Argostoli, Kalavrita, Zakynthos) specifically after extensive disasters i.e. earthquakes and bombings. However, the legal provisions of Land Readjustment according to the 1923 Decree i.e. articles 50-51 though obsoleted and not in use, are still in force and theoretically could be applied to town plans which were drawn before 1983.

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<sup>7</sup> Overall, in the specific case "the concepts of land readjustment, expropriation and landowners' association, were merged into a single rationale that attempted to address the issues of distribution of socially produced surplus value, the private and public interest, the rearrangement of properties, the control of speculation and the acceleration of private urban development process" (Yerolympos, 1995).

<sup>8</sup> This mixed system of expropriations and land contribution is known as "self-compensation" (*autoapozimiosi*)

<sup>9</sup> In reality, there have been many instances where significant parts of approved statutory town plans have not been implemented on the ground.

### 3. The regulatory framework of Land Readjustment after 1975

Article 24 of the Greek Constitution lays out the legal basis<sup>10</sup> of the Land Readjustment in Greece (StE<sup>11</sup> 2149/1986, Skouris, 1991, Christofilopoulos, 1990). In particular Article 24 par.3 provides for landowners to contribute to the securing of land for public facilities and amenities without compensation. Article 24 par.4 provides for the participation of property owners to the development and general accommodation of an area, on the basis of an approved town plan, in exchange for properties or apartments of equal value in the building plots or buildings of such area. According to Article 24 par.5 the preceding paragraphs are also applicable in the rehabilitation of existing residential areas. In case free spaces remain free after rehabilitation, these shall be allotted to the creation of common utility areas or shall be sold to cover expenses incurred by the rehabilitation, as specified by law.

Following the above constitutional provisions, the Land Readjustment had been legislated with articles 35 to 50 of the Law 947/1979 for “Residential Areas”<sup>12</sup>. In particular, the specific law provided for the urban development or the rehabilitation of an existing area according to three mechanisms i.e. a) Operational Planning<sup>13</sup>, b) Urban Land Readjustment and c) enactment of general land plot and building provisions i.e. Regulatory Building Provisions. The development of an area under the first two mechanisms would require the designation of respective Zone of Operational Planning (Zoni Energou Poleodomias/ZEP) or Zone of Land Readjustment (Zoni Astikou Anadasmou/ZAA) whereas the latter i.e. Zone of Regulatory Building Conditions (Zoni Kanonistikou Oron Domisis/ZKOD) does not essentially differ from that of a normal Town Plan under the provisions of the 1923 Decree.

Law 947/1979 was actually never implemented, due to a strong resistance by land owners and the opposite political parties as well, because of the high, as perceived, ratios for land and money contribution that it introduced<sup>14</sup>. However, articles 35 up to 50 of L. 947/79, as amended and partially supplemented later by subsequent laws<sup>15</sup> still constitute the main institutional framework of Land Readjustment in Greece. The execution of a Land

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<sup>10</sup> As regards the ‘legal nature’ of Land Readjustment, part of the Greek literature describes it as a form of expropriation, in which the land owner receives a compensation in kind i.e. a new land plot with at least the same value (Choromidis, 1994) while other sources (Dagtoglou, 1991) argue that Land Readjustment cannot be regarded as a form of expropriation, at least for those landowners which voluntarily participate in the process. In that case, the land readjustment process is not aiming to deprive the property in favor of a third person, but only to readjust it and in some cases to reallocate it, in view of the private and public interest. Dagtoglou argues as well (1991), that Land Readjustment can be viewed as a “partial expropriation” in case that the proprietor receives not only a property, but a monetary compensation as well, so as to supplement the equal value criterion before the readjustment process.

<sup>11</sup> Council of State i.e. Simvoulio tis Epikratias (StE) in Greek

<sup>12</sup> The specific Law introduced the notion of the “residential area” as the land which, due to its location and natural terrain, is appropriate for development and for the service of the living, the organized social life and the productive activities of people (Article 2par.1 Law 947/1979).

<sup>13</sup> Operational Planning was an innovative approach of housing production according to which a total renewal or redevelopment of an area is undertaken by a special operational planning company. Original real estate owners receive property of the same value after reconstruction has taken place (EC, 2000).

<sup>14</sup> The landowners in these areas had the obligation to contribute part of their land (30% in ZEP and ZAA and 40% in ZKOD) and an additional money payment (10% in ZEP and ZAA and 15% in ZKOD of their plot’s value) so that the necessary public space and land for social benefit uses is secured.

<sup>15</sup> Article 10 of Law 1337/1983, Article 23 of Law 2508/1997, Presidential Decree 422/1994, Presidential Decree 66/1995

Readjustment project can be undertaken and implemented by the public authorities or a compulsory landowners association<sup>16</sup>. The latter can be established as well in order to support the implementation of the project, in case this is to be executed by the public authorities. The declaration of an area as a Land Readjustment Zone (ZAA) can start with a decision from the Minister of Environment, after a proposal from the local authorities or a request by a legal entity of private or public law accompanied by a written consent of the majority of the property owners of the area<sup>17</sup>. The designation of an area as a ZAA can start simultaneously with the process of the elaboration of a General Urban Plan i.e. a Local Spatial Plan (TXS)<sup>18</sup> according to the new terminology, or after the approval of the TXS. In the latter case, the boundaries of the ZAA are depicted in the TXS and a Presidential Decree (PD) is issued to designate the geographic boundaries of the Zone and to define the executing body of the project. If the Presidential Decree provides for the creation of a compulsory association to execute the LR project, then all the property owners of the land plots located in the Land Readjustment Zone obligatorily participate in the association. The LR process, according to Article 38 of Law 947/1979, includes the following stages:

1. Creation of a compulsory landowners association
2. Cadastral Survey and Land Registration of the Land Readjustment Zone
3. Elaboration and Approval of the Detailed Local Plan (Town Plan)
4. Appraisal of the Values of the contributed plots
5. Implementation of the Detailed Local Plan and allotment of the redistributed land plots
6. Dissolution of the landowners association.

If the executing body of a LR project is a public authority, then the whole process is limited into stages 2 to 5. The cadastral map and the inventory of the plots contained in the area for reallocation shall be placed on public display for one month in the municipality<sup>19</sup>. Appeals against the cadastral map and the cadastral tables can be made in the local court of first instance from anyone with a legitimate interest. The elaboration and approval of the Detailed Local Plan follows the completion of the cadastral survey and land registration of the ZAA. It is legally binding and it defines the land uses, the public facilities and amenities, the building conditions like plot ratios, floor-area ratio, building materials etc., as well as, any other additional limitations and prohibitions.

Each property within the boundaries of the ZAA is subject to a land contribution (*eisfora gis*) for the creation of public spaces which depends on the original plot's size (i.e. before the urban development process) and it is calculated according to specific rates provided for by the

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<sup>16</sup> Initially the law provided for the execution of a LR project by the Public Housing Corporation (DEPOS), though the recent government downsizing, due to the economic crisis, resulted in the abolition of DEPOS with the Law 3985/2010. However the Law does not provide for the execution of LR by local authorities.

<sup>17</sup> In this case the land owners should hold at least  $\frac{3}{4}$  of the total acreage of the area

<sup>18</sup> The recent planning reform i.e. Law 4269/2014 substituted the General Urban Plans with the Local Spatial Plans. These plans define the general land uses, the building conditions and the general guidelines for the comprehensive spatial organization and development of an area. They are covering the administrative borders of one or more municipal units of a municipality i.e. the first tier local authority in Greece.

<sup>19</sup> At the time that Law 947/1979 was legislated, the land administration system was based exclusively on the system of Registrations and Mortgages. Therefore any urban development process should involve a kind of cadastral survey and land registration in the area to be developed. In the course of the years, the Hellenic Cadastre project is expanding to cover the Greek territory, therefore all recent provisions on planning law provide for the use and exploitation of the cadastral data in areas where a Cadastral Office is in operation. However the existing legal provisions of the Land Readjustment haven't been amended yet. Nevertheless, in areas where the Hellenic Cadastre hasn't been completed yet, the cadastral survey process should follow the declaration of an area as a ZAA.

law. In the same philosophy, the finance for the construction of the public facilities is obtained through a mechanism of a tiered contribution in money (*eisfora se xrima*) that each property is subject to<sup>20</sup>. In this case, it is the property area after the development process i.e. after the deduction of the land contribution that defines the amount of contribution in money. The appraisal of the values of the land plots before and after the reallocation procedure is carried out by a committee<sup>21</sup> and takes into account the general conditions of the local real estate market and the specific characteristics of each plot i.e. shape, size and orientation. Any objections to the committee's decisions regarding the plots' values can be settled in court, after the completion of the LR procedure and the distribution of the new plots. After the reallocation procedure each landowner in the Land Readjustment Zone receives a new plot with a value, at least equal to the value of the original plot. In cases where it's not possible to redistribute a building plot due to the size or to the value of the original plot, a landowner can receive a shared ownership, or a condominium in an existing or a new building in the Zone. Small plots or shared ownerships existing in the Zone, which cannot be reallocated according to the new plan, can be purchased or expropriated by the executing body of the project. The reallocation process is completed with the issuance of the Deeds for the transfer of the new building plots to the landowners<sup>22</sup>. Last, the compulsory association of landowners is resolved, in case the project has been implemented by such a body.

The Land Readjustment was legislated in 1979 as one of the three development mechanisms in the Greek planning law, and classified, along with Operational Planning, as a planning tool which requires a strong intervention in land tenure (Chatzopoulou, 2003). Albeit, up to date, almost four decades after the enactment of Land Readjustment, the respective provisions are incomplete, since the anticipated Presidential Decrees for the compulsory associations have not been issued yet, obsoleted since not streamlined with the successive amendments of the planning law, and ultimately still dormant and underused.

#### **4. The contemporary implementation of Land Readjustment at the sidelines of the urban development of the country.**

The implementation of Land Readjustment in Greece in its current form was extremely limited even though there were a lot of areas that had been declared as Land Readjustment Zones in relevant General Urban Plans<sup>23</sup> in the early '80s. In particular, there are only three urban development projects in which the LR tool had been selected, whilst only one of the

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<sup>20</sup> As being said (See footnote 14) when LR was legislated in 1979, the land and money contribution rates were 30% and 10% respectively for each plot inside the ZAA. This provision amended later, with the planning law of 1983 which provided for land and money contribution rates calculated on a tiered scale with regard to the plot's size and not on a uniform percentage as established by Law 947/1979. In addition the new law abolished the distinction of land and monetary contribution rates for plots to be developed with Land Readjustment (ZAA) or Regulatory Building Conditions (ZKOD) whereas the previous law provided for lower rates in case of ZAA (See footnote 14). However these rates had been amended a few times since then, as not sufficient to ensure the spaces for public facilities, due to the tiered scale and the small size of land plots. Recently, the Law 4315/2014 established new rates for land contribution which range from 10% for the plot's part, up to 500sq.m. to 50% for the plot's part above 10.000sq.m. In case that, public spaces cannot be secured with these rates, the new law provides for a proportional increase of land contribution.

<sup>21</sup> The committee consists of a judge from the local administrative court, an executive officer from the planning authority and the director of the tax authority (Article 1 PD 422/1994).

<sup>22</sup> Article 49 Law 947/79, PD 66/1995

<sup>23</sup> e.g. P.D. 24.4.1980 "About the residential area of the Municipality of Heraclion Attica", General Urban Plan of Peiraius (Government Gazette 79D/1988), General Urban Plan of Tavros Municipality (Government Gazette 834D/1987).



projects was completed successfully. These projects, concern a total of ca.654 ha of areas which used to be or currently belong to Landowners' Associations<sup>24</sup>. Therefore the Land Readjustment legal framework was implemented in conjunction with the specific legal context of the Landowners' Associations<sup>25</sup>.

The only implemented Land Readjustment project in Greece, under the provisions of Law 947/1979, concerns an area of ca.32 ha which had been acquired in the '60s by the Landowners' Association "Saint George" in the foot of Ymittos Mountain at Glyfada suburb southeast of Athens. At the time of land acquisition no land use plan existed, designating the area as appropriate for residential development. Despite that, the Association elaborated a subdivision plan for the distribution of land plots to its members, on which some unauthorized buildings were developed. Following, the area was designated as residential in 1989 and declared as Land Readjustment Zone in 1993. The approval of the Detailed Local Plan and of the Reallocation Map followed in 1993 and 1994 respectively. The next year i.e.1995 the real estate appraisal stage was attained due to the issuance of a Presidential Decree which determined the composition of the appraising committee and the details of the procedure. The same year the new land plots were redistributed<sup>26</sup> to the original landowners (~ 600) and the infrastructure works begun, to be completed after three years. The first LR project in Greece gave rise to the issuance of some Presidential Decrees, anticipated in the 947/79 Law. However, a number of problems regarding the proper implementation of the institutional framework were encountered, but surpassed with disputable solutions, mainly due to the strong will of all involved parties (landowners, public and local authorities) to provide a statutory plan and the necessary public facilities to the area.

Apart from the above case, there were two more endeavors to implement the legal framework of LR according to Law 947/79 in Greece, though without success so far, yet indicative of the structural deficiencies of the Land and Spatial Planning Policies in Greece. The first one concerns an area of ca. 600 ha at the foot of Penteli Mountain (Pikermi suburb), in Attica, in which the process lasts for more than two decades. The absence of Land Cadastre and Land Use plan at the time of land acquisition, led to encompassing not only agricultural but forest land, archaeological sites, river-beds, streams and natural protection zones as well, in the area that had been bought in the early '70s for residential purposes from six Landowners' Associations (Aravantinos, 2007). The whole area was declared as a LR Zone in 1988 and a statutory town plan was elaborated the same year. However, the Council of State didn't uphold the ratification of the statutory plan, founding the area as not appropriate for residential development due to its proximity to the protection zone of the

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<sup>24</sup>The Landowners' Associations were founded, mainly by civil servants, military personnel or other professionals, during the 60's and 70's in Greece, with the exclusive goal to provide building plots to their members, by acquiring land in the urban fringe, usually encompassing public land or forest areas. The initial share of each member of an Association was converted to a building plot after the subdivision of land, according to an unauthorized private plan. Besides, the Association was usually dissolved after the subdivision of the plots, sometimes without having constructed the necessary public facilities. This mechanism, which was developed as a substitute to the inadequacy of official planning to provide urban land in due time, was much criticized in the Greek planning literature, and is considered as one of the major problems that have to be settled currently, since there are still a lot of areas which belong to Landowners' Associations, though are considered as inappropriate for housing.

<sup>25</sup> Presidential Decree 93/1987 for the urban development of areas belonging to the Associations of Landowners.

<sup>26</sup> The average land contribution rate per plot was ~6,58% due to the application of the provisions of the P.D. 93/1987 instead of the ones provided in the specific LR legal framework i.e. Article 18 of Law 947/197 as being revised with Article 10 of L.1337/83 Law.

Penteli Mountain<sup>27</sup>. Despite that, the Ministry of Environment proposed two improved versions of the statutory town plan which were rejected as well by the Council of State in 2000<sup>28</sup> and 2006<sup>29</sup> respectively. The incorporation of forest land, archaeological sites, streams and natural protection zones to the boundaries of the LR Zone and the provision of the Attica's Master Plan for the control of the urban sprawl were the main reasons for the latest decisions of the Council of State. Lately, the Ministry of Environment attempted once more to overcome the obstacles encountered in the previous period with Law 4280/2014. Nevertheless, almost three decades after the designation of the area as a LR Zone the project is still in progress while it still remains to be seen whether the new provisions will prove more effective.. However, the specific case reveals in the most dramatic way, the socioeconomic impacts of the delay of the National Cadastre, of the overlapping and often conflicting planning regimes and public law restrictions as well, which increase uncertainty and investment costs and are ranked among the highest impediments for the creation of a business friendly environment (OECD, 2011). Last, the third attempt to implement the idea of LR concerned an area of ca.22ha in Thessaloniki<sup>30</sup> which later was abandoned due to problems stemming from the obsoleted legal framework of LR according to the provisions of L.947/79 and the administrative capacity of the local planning authorities (Balla, 2009).

Overall, the experience from the contemporary implementation of LR demonstrates that the tool of Land Readjustment was selected as an exception for the urban development in the country, motivated by opportunistic criteria to overcome obstacles originating from existing land patterns and delayed official planning to provide residential land in due time.

## 5. Land Readjustment in the context of Law 1337/1983

A hybrid form of Land Readjustment is taking place in the context of the urban development process according to Law 1337/1983 which inaugurated an extensive programme to provide land use plans and town plans in almost 380 cities and communities in the country. The specific programme gave priority to the extension of existing town plans in areas that were on the urban fringe, had unauthorized development and lacked basic urban infrastructure, through the enactment of Regulatory Building Provisions i.e. one of the three mechanisms that Law 947/1979 introduced. The new legal regime targeted a smooth and gradual reform of the planning system appeasing those social groups that had been opposed to the previous Law 947/1979.

In particular Law 1337/1983 kept the rationale of land and money contributions under Law 947/1979, but introduced a tiered scale related to the size of the properties, favoring though small size against large size plots<sup>31</sup>. Furthermore, it provided for the implementation of town plans through "Implementation Acts" (*Praxeis Efarmogis*) which are usually elaborated for the whole area of the Town plan, to avoid problems stemming from the gradual implementation of town plans such as those of the previous regime of 1923 Law Decree. The "Implementation Act" consists of a land registration map, which depicts property adjustments,

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<sup>27</sup> PE StE 89/1998

<sup>28</sup> PE StE 246/2000

<sup>29</sup> PE StE 104/2006

<sup>30</sup> Efkarpia community in Thessaloniki

<sup>31</sup> The land contribution is related to the total amount of land owned by a particular owner in the area under integration into the town plan (Article 8 Law 1337/1983) whereas the calculation of money contribution is based on the value of the property as formed after the implementation of the town plan (Article 9 Law 1337/1983). See also footnote 20.

and is accompanied by tables of land and money contributions assigned to each property to ensure that the land needed for public open spaces and public-service uses is secured. However, it does not induce major property modifications but rather adjusts the Town Plan to the existing land structure by taking into account the realities of land properties on the ground (EC, 2000). In the course of years<sup>32</sup>, several amendments have been brought in the legal provisions of the “Implementation Acts”, which targeted the expansion of readjustment procedures so as to facilitate the implementation of the statutory plan to the ground. Therefore, in the context of the law, land readjustment is considered currently the unification of the parts forming the land contributions, the reallocation of land plots and any other change that may be needed for the implementation of the plan that affects their size, shape or dimensions<sup>33</sup>. The “Implementation Acts” are considered as definite and immutable after the ratification by the Regional Governor and are registered in the local Cadastral or Mortgage office. However, in case a land owner disagrees with the equivalent of the old to the new building plot, which is attributed by the “Implementation Act”, they can lodge an appeal to the courts within six months after the ratification of the Act requesting a judicial determination of the property’s value. The law does not provide for the appraisal of the land values before the “Implementation Act” but only after its ratification with a view to calculate the money contributions.

The provisions of Law 1337 prevailed after 1983 in the vast majority of the planning processes in the country and raised a lot of debates in the planning literature as not being more efficient than those of the 1923 Decree. In actual practice of both cases, there are serious delays in the implementation of the plans and the payment of the necessary compensation to affected landowners<sup>34</sup>. According to empirical data presented by the Central Union of Municipalities and Communes of Greece in November 2005 (KEDKE, 2005), the average time for the approval of the Implementation Acts is between four to six years. Additionally, the tiered scale for the calculation of money and land contributions to provide the necessary land for public facilities and to meet the infrastructure’s costs, proved inefficient and problematic (Economou, 1999), while disputes over the legal nature of the “Implementation Acts” and their impact on property rights have arisen as well (Choromidis,1995).

## 6. Overall assessment

Land Readjustment implementation in Greece, either with the provisions of the 1923 Decree or with those of Law 947/1979 is poor, in spite of the fact that the tool was initially transposed to the domestic planning system timely, compared to other countries. The ultimate cause for this implementation gap is a sum of several underlying factors in political, economic, social and cultural level (CIPE, 2012).

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<sup>32</sup> Initially the Law 1337/83 was considered to be a temporary and transitional law, aiming to address the urgent needs that had been accumulated in the previous period i.e. unauthorized settlements, serious delays in the implementation of town plans and absence of land use plans in the “out of plan” areas. Despite the initial anticipations, the specific legal regime remains valid until today with successive amendments which aimed to improve some of its initial deficiencies.

<sup>33</sup> Article 12 par.3 of L.1337/1983 as being amended by L.1512/1985. In fact, the “Implementation Acts” have been enriched with the ability of the reallocation of land plots, since readjustment actions have been predicted and are taking place as well in the context of the “Administrative Acts” (Praxeis Analogismou Apozimiosis) of the 1923 Law Decree.

<sup>34</sup> For cases that involve the system of the Law Decree of 1923, the delays sometime exceed forty, sixty, seventy, or even ninety years (StE 2673/1999, StE, 1451/1998, StE 385/1997) (Giannakourou, Balla, 2006).

At a **political level**, *divergent political agendas* were a determinant factor for the limited use of LR. Law 947/1979 was actually never implemented due to a strong resistance by several interest groups and the opposite political parties which led to its suspension and the enactment of Law 1337/1983 a few years later. The *state bureaucracy* is another factor which caused the failure of LR in Greece. The planning process evolved to a bureaucratic one, lacking to inspire trust to the involved landowners (Gartzos, 1990) while, though the planning authorities having an excessive degree of discretion to implement the law, they demonstrated inertia to apply the more innovative mechanisms i.e. Land Readjustment and Operational Planning. Aside from the above, the *quality of the legal framework* and specifically those provisions for the compulsory landowners associations were perceived as overly complicated and unclear, along with the *limited legitimacy of Law 947/1979* were crucial for the lack of LR implementation.

The aggregate *lack of resources* of the planning authorities is placed among the **economic factors** behind the limited use of LR. Indeed, the Greek planning system, apparently impacted by the limited resources of the planning authorities, is considered as a formally plan-led system which does not lead developments, but rather responds to change, often with a considerable time lag and thus usually strives to accommodate unauthorized settlements by legalizing them after the event (EC, 2000). The application of LR is commonly agreed that is hindered by the existence of buildings and is mostly appropriate for green fields (FIG, 2009). Therefore the high density of illegal buildings in the '*out of plan*' areas led to the intense use of regulatory provisions i.e. "Implementation Acts", according to which the Town Plans are adjusted to the existing plot boundaries without major modifications. However, in the course of years, the need for applying reallocation procedures during the implementation of the Town Plans was addressed by amending the respective legal framework of 1337/1983, therefore, reducing some of its original deficiencies and increasing respectively the similarities with the Land Readjustment mechanism which lacked of strong economic incentives as a counterbalance.

Related research on public governance (CIPE, 2012) argues that the implementation gap occurs and persists due to a variety of **social and cultural conditions**. Indeed, the *dominant socio cultural pattern around land ownership* in Greece affected the implementation of Law 947/79. The latter, with the institution of Land Readjustment and Operational planning envisioned a more interventionist role of the State to land development. However, the persistent cultural stereotypes and practices of all the actors in the planning system in Greece for minimum intervention in landownership, led profoundly to the abandonment of these instruments. Indeed, the contemporary form of Land Readjustment was legislated with a considerable time lag<sup>35</sup> in Greece in the late '70s, without necessarily corresponding to the domestic socioeconomic context and respective planning needs. In fact, the reforming planning endeavor of the '70s to inaugurate a new urban paradigm failed and was replaced by a new policy which compromised social resistance and was regarded as more pragmatic. In this direction, the implementation gap was fueled as well by the *influence of local elites* i.e. professional associations and planning experts that were opposite to the most innovative features of Law 947/1979.

Aside the factors which caused the implementation gap, the problems that have been encountered in the cases where LR was applied, are related to the basic structural weaknesses,

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<sup>35</sup> The modernization of the tool on Greece had a considerable time delay, compared to other countries such Germany or Japan where it was implemented extensively as the main urban development process after World War II.

deficiencies and general pathogens of the Greek Land Administration and Spatial planning system in Greece such as (Balla, 2012):

- Costly, cumbersome and lengthy procedures for the elaboration, approval and implementation of plans
- Conflicting and scattered legal provisions in planning law
- Overlapping and often contradicting land-use regulations, permits and consents<sup>36</sup>
- Absence of a complete Cadaster and lack of delineation of protected areas and public land
- Complicated, fragmented and strongly centralized planning responsibilities.

Overall, the enactment of LR in Greece demonstrates the fragmented and mechanistic manner in which other innovative ideas, tools and practices have been transposed to the domestic legal system from abroad, and caused them to remain inactive and become obsolete in the course of years (ESC, 2007). In addition, the implementation gap reveals the contradiction among the explicit public policies for environmental protection and rational planning on one hand, and the systematic tolerance of the Greek State to practices which were considered as part of the so called “tacit social contract” (Lygeros, 2011). The latter has promoted and expanded the post war land development model, as a substitute of the inadequate social welfare state (Giannakourou, Kafkalas, 2014), while it has been used to ensure consent by broad popular strata towards the state itself and the status quo (Mantouvalou, 1988).

The looming paradigm shift of the Greek Land and Spatial Planning System towards a “pro-growth” planning model, the concurrent collapse of the domestic real estate market along with governmental downsizing and shrinking public spending, inevitably influence the use of Land Readjustment in its current form. However, since the fragmented landownership patterns and oddly-shaped parcels are still part of the Greek reality and hinder the redevelopment of urban land, the “spirit of land readjustment” should be exploited in new forms to address the needs of urban renewal, which in medium-term are expected to rise in the older parts of the Greek cities.

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<sup>36</sup> e.g. forest legislation, archaeological legislation, seashore legislation etc.

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