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# Rethinking planning law in the crisis era: The Greek experience

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***I. The Greek Planning System:  
Brief overview and status of play***

# A. History

- ❑ **1923-1975:**
- ❑ Physical Planning
- ❑ Main Instrument: Town Plan
- ❑ **1975 - 2010 :**
- ❑ Establishment of new plans of general guidance at the local level, setting the basic directions of the future development of a settlement (Law 1337/1983, as amended by Law 2508/1997)
- ❑ Movement towards strategic spatial planning (Law 360/1976 & Law 2742/1999)
  
- ❑ In addition, introduction of special Master Plans of metropolitan character for the country's two major urban centers (*Athens and Thessaloniki*) and for other important urban centers (*Law 1515/1985, Law 1561/1985, Law 2508/1997, Art. 2 & 3*)
- ❑ As a result of the enactment of new legislation, multiplication of planning levels and instruments



Planning Level	Type of Instruments	Area covered	Responsible planning authority (for the approval)	Approved/ Last Revised
NATIONAL	<b>Strategic:</b> National Spatial Framework	The whole country	Approval by a special Interministerial Committee Ratified by the Parliament	<i>approved 2008</i>
	<b>Strategic:</b> Special Spatial Planning Frameworks	A functional planning zone or area (e.g. coastal zone, islands e.t.c.) or a sector of activities (e.g. industry, tourism)	Approval by a special Interministerial Committee	<ul style="list-style-type: none"> <li>• Renewable resources (<i>approved 2008-revised 2010</i>)</li> <li>• Industry (<i>approved 2008</i>)</li> <li>• Tourism (<i>2009 approved-2013 in the process of revision</i>)</li> <li>• Aquaculture (<i>2011 approved</i>)</li> <li>• Prisons (<i>2001 approved</i>)</li> </ul>
REGIONAL	<b>Strategic:</b> Regional Spatial Planning Frameworks	The area of a Region	Minister for the Environment, Energy & Climate Change (YPEKA)	<ul style="list-style-type: none"> <li>• 2002-2003 (<i>12 Regional Plans approved</i>)</li> <li>• 2013 in the process of revision</li> </ul>
METROPOLITAN	<b>Framework:</b> • Master Plans for Athens and Thessaloniki • Master Plans for other major cities	<ul style="list-style-type: none"> <li>• The Greater Area of Athens and Thessaloniki</li> <li>• The Greater Area of the selected cities</li> </ul>	Approval by Parliament	<ul style="list-style-type: none"> <li>• Athens : Approved by Law 1515/1985</li> <li>• Thessaloniki: Approved by 1561/1985</li> <li>• Not yet approved for the other major cities</li> </ul>

Planning Level	Type of Instruments	Area covered	Responsible planning authority (for the approval)
LOCAL	<p><b><u>Framework:</u></b>            1.General Urban Plans (G.P.S.)</p> <p style="text-align: center;">or</p> <p>2. Plans of Spatial and Settlement Organization for Open Cities (SHOOAP)</p>	<p>1. The whole of one municipality of more than 2.000 habitants</p> <p>2. The whole of one or more municipalities and communes of rural areas with a population of less than 2.000 habitants each</p>	<p>- Secretary General of the Decentralized Administration</p> <p>- Secretary General of the Decentralized Administration</p>
	<p><b><u>Regulatory</u></b>            1.Zoning plans for out of plan areas</p> <p>2. Different types of town plans for diverse residential regimes (<i>Poleodomiki Meleti, Schedio Poleos</i>)</p> <p>3.Implementation and land contribution plans (Praxis efarmogis)</p>	<p>1 Functional planning urban or/ and rural areas.</p> <p>2. Neighborhood level of one Municipality</p> <p>3. Neighborhood level of one Municipality</p>	<p>1. Ministry of the Environment, Energy &amp; Climate Change (YPEKA)/ Presidential Decree</p> <p>2. Ministry of the Environment, Energy &amp; Climate Change (YPEKA)/Presidential Decree</p> <p>3.Secretary General of the Region</p>

## B. Rationale: plan-led or development-led system?

- ***A formally plan - led system***

- ❑ Planning decisions, i.e. planning permissions and other consents, should be carried out in accordance with the provisions of plans, especially the regulatory or land-use plans
- ❑ This obligation doesn't apply only on housing but on every use of land for development reasons (*tourist, industrial, commercial development etc*).
- ❑ The case-law of the Council of State: planning as a prerequisite for land development



## B. Rationale: plan-led or development-led system?

- *The real world of planning: development-led process*
- ❑ **Formal processes poorly linked to demand on the ground**
  - Reasons:
  - ❑ Non-efficient processes (*lengthy and costly procedures for approval, revision and implementation*)
  - ❑ Excessive regulation leaving little space for flexibility and adjustment
  - ❑ Departures from plans not officially provided
  - ❑ Legalistic attitudes in planning administration
  - ❑ As a result .... **ex-post planning**: plans at different levels developed usually as an ex-post corrective mechanism aimed at legitimizing pre-existing privately led development processes, advanced without planning



## C. Consistency: the problem of overlapping planning jurisdictions and policies

- ***Overlapping planning jurisdictions and policies***
  - ❑ **Not clear relationships** between spatial plans at different spatial levels (*national, regional, metropolitan and local plans*)
  - ❑ **Parallel mechanisms of land development** and control deriving from sector policies (*industrial legislation, tourist legislation, etc*) and/or special planning regimes (*e.g. forest legislation, archaeological legislation, seashore legislation etc*)



## C. Consistency: the problem of overlapping planning jurisdictions and policies

- *A highly complex and confusing legal environment for planning*
  - ❑ **Overlapping** (and even contrary) **land-use regulations** at different planning levels
  - ❑ **Parallel and overlapping land-use permits and consents** (*e.g. licence for construction and use on the sea shore and on beaches, permit for intervention on monuments and their surroundings, permit for intervention on forest land, building permit etc.*)
  - ❑ Ambiguity and “**red-tape**”
  - ❑ **Lack of coherency** in the physical development of a particular area

## D. Performance: formal rigidity ...but weak enforcement

- ***Rigid and non-responsive legislation***
- ❑ **Multiplicity of planning and building laws/diverse legal regimes** (e.g. *within-the-plan areas, out-of-plan areas, settlements of up to 2.000 population, traditional settlements etc*)
- ❑ **Multiplicity of planning levels and instruments/parallel planning regimes**
- ❑ **Predominance of a ‘command and control’ type regulation** (*rigid zoning plans and building regulations, excessively detailed land-use and urban design plans*)
- ❑ **Departures from statutory plans not formally (or rarely) provided**



## D. Performance: formal rigidity ...but weak enforcement

- ***Serious enforcement problems***

- ❑ Lack of efficient monitoring, control and inspection mechanisms
- ❑ Low level of citizens' support and public awareness
- ❑ Result quite often in unauthorized development (*uncontrolled urban sprawl, illegal parceling of land, illegal housing etc*)
- ❑ This situation has undermined people's trust in the regulatory capacity of planning law



## *II. Planning law in Greece after the crisis: new issues, new tools, new challenges*



# A. New issues for Greek planning law and policy:

## New needs & driving forces

- ❑ the need for reduction of public debt
- ❑ the need for reduction of public expenditures
- ❑ structural reforms to improve business environment and boost the economic recovery of the country
- ❑ the need for the increase of public revenues

## Consequent changes

- ❖ Exploitation of public property in the framework of the Greek Privatization Program
- ❖ Outsourcing of public service competencies
- ❖ Strategic investments
- ❖ **Business Friendly Greece**  
*(simplification of environmental, building and operating permits completion of Land Registry etc.)*
- ❖ **“Planning Amnesty”** *(unlock the dead capital blocked in unauthorized development)*
- ❖ Increase on taxation of real estate

## A. New issues for Greek planning law and policy:

- *Contextual changes influencing Greek planning*
  - Changes in the traditional models of urban development and housing production, due to:
    - serious loss of incomes at the level of middle and lower social classes
    - Significant increases on property ownership tax of small and medium-size land property (*Arts 27-50 of Law No 3842/2010 and Art.53 of Law No 4021/2011 as amended by Arts. 1& 5 of Law 4047/2011. 2013 New bill on property ownership tax announced*)
    - downsizing of small and medium-size construction sector.

## B. Changes in planning tools and planning institutions (2010-2013)

### Three major directions of change

#### 1) *Providing institutional alternatives to traditional land-use planning:*

- **The main option: establishment of special and simplified planning regimes** for certain categories of projects (e.g. ***strategic investments***) or categories of areas (***public real estate assets***)
- L. 3894/2010 (as amended by L. 4070/2012 and 4146/2013) introduces a special planning regime, along with special planning services, for the promotion of Strategic Investments
- On the same line, L. 3986/2011 introduces a special planning regime (*planning rules, land-uses, building conditions, development plans and location procedures*) for the development of public properties in view of their privatization
- **Both regimes establish new planning tools** (*zoning plans*) which refer only to strategic spatial planning



## B. Changes in planning tools and planning institutions (2010-2013)

### *2) Simplifying and streamlining procedures for planning and environmental licensing:*

#### **2.1. Simplifying procedures for environmental licensing (Law No 4014/2011)**

- Provides for less bureaucracy and “red tape”
- Reduces the number of projects and activities that require EIA
- Merges overlapping permits into a single environmental permit
- Shortens the deadlines for the delivery of environmental permits
- Provides for an electronic environmental registry

#### **2.2. Simplifying procedures for the issuance of building permits (Law No 4030/11)**

- Clear separation of powers and functions between licensing authorities and inspection authorities on the other hand.
- Issuance of building permits ► Building Services of Municipalities
- Inspection function ► Certified private inspectors (Register of Building Inspectors).
- Promotes the transparency in the licensing process: electronic submission of all required documents and studies
- Standardization of required documents and studies
- Shortens deadlines for the delivery of the building permits



## B. Changes in planning tools and planning institutions (2010-2013)

### 3) *Outsourcing of planning and environmental services*

The main idea: *Involving private sector in environmental and building licensing, auditing and control in order to overcome a large, inefficient and costly bureaucracy*

#### 3.1. Outsourcing of environmental assessments & evaluations

(Art. 16 of Law 4014/2011 )

- provides for the creation of a special **Registry of Certified Assessors** for the Evaluation of Environmental Impact Studies
- Certified Environmental Assessors (CEA): environmental practitioners with sufficient education and work experience in environmental assessments and controls
- They undertake the evaluation of Environmental Impact Studies concerned with the realization of public or private development projects.
- CEAs are entitled to proceed to a thorough examination of the environmental report submitted to public services and draft the environmental terms to be included in the environmental license.

#### 3.2. Outsourcing of building inspections

Law 4030/2011 (arts 10-15)

- provides for the outsourcing of building inspections to building practitioners (engineers) after registration in the **Registry of Building Auditors**.
- Building inspectors are responsible for inspecting building work during construction and ensuring compliance with the approved building permits and related regulations.
- Building inspectors must obtain an inspection license after attending successfully special seminars on building controls and regulations and undergoing relative examinations.
- The status of a certified inspector is incompatible with the status of a government official or employee in the public sector 17

## B. Changes in planning tools and planning institutions (2010-2013)

### \* 'Planning Amnesty'

#### *Arts 5-10 of Law No 3843/2010*

- This Law regulates violations in legally issued building permits concerning change of use of auxiliary spaces of a building to another (main) use with the precondition that the new use is consistent to the approved land uses in force
- Introduces an administrative procedure according to which the citizen can claim the preservation of the illegally built part of his apartment /house for 40 years after depositing a special fine.
- Regards mainly small-scale violations of the Building Code (e.g. *illegal change of use of parking areas into residences or offices etc.*)

#### *Arts 23-28 of Law No 4014/2011 & New Law 4078/2013*

- Provide for prohibition and invalidity of contracts regarding transfer of real estate properties with illegal buildings or illegal changes of uses in buildings or other illegal constructions within the property.
- Legislate the requirement for submitting legally binding affirmations (*from the property owners*) as well as certificates and surveying plans (*from an engineer*) that confirm the non-existence of illegal buildings on the property to be transferred.
- Provide for heavy fines and penalties for breaching the provisions of the law to the property owners, notaries, Land Registrars, engineers etc.
- Introduce an administrative procedure according to which the citizen can claim the preservation of the illegal building or other constructions illegally built on his property for 30 years after depositing a special fine.<sup>18</sup>

## C. Future challenges: Making the Greek planning system clearer, more responsive, and more effective

- *Changes in planning law and institutions that have been established so far do not involve the wholesale transformation of the mainstream planning system in Greece*
- ❑ The latter remains in principle intact and is only subject to selective ‘bypasses’ that enable ad hoc departures from existing plans and processes
- ❑ Specific provision in the recent updated MoU for the simplification and speeding-up of planning processes at different levels of planning, among the measures designated to improve business environment



## C. Future challenges: Making the Greek planning system clearer, more responsive, and more effective

- *Selective amendments or a broader reform of the existing planning system?*
- ❑ A broader planning reform, in order to be effective and above all useful, has to take into account certain methodological parameters
- ❑ Among them:
  - a comprehensive rethinking of the role of planning regulation in Greece
  - adoption of clear principles and goals that may ensure accountability for results and, finally, the current and future limitations with regard to financial and human resources and administrative capacities



## C. Future challenges: Making the Greek planning system clearer, more responsive, and more effective

- ❑ As “perfect” planning systems cannot be expected to be developed over night, **we should build on the strengths of previous changes in planning legislation** and progressively strengthen and consolidate former good-practices
- ❑ Moreover, we have to learn from countries with similar experiences and understand the strengths and the weaknesses of various institutional experiments and planning reforms tried in other countries
- ❑ In this regard, the presentations which will follow and the discussion afterwards will be a valuable source of thinking and inspiration regarding the Greek case

