

PRIVATIZATION OF PLANNING POWERS AND PLANNING PROCESSES IN GREECE: CURRENT TRENDS, FUTURE PROSPECTS

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1. Introduction

Urban and regional planning is perceived in Greece as a government's duty and responsibility¹. However, due to the financial and economic crisis the country is facing since early 2010 and the consequent government downsizing, the balance between public and private sector's involvement in planning functions and processes is starting to change. Various functions and activities of urban planning that traditionally fell under the responsibility of public services and public agencies have been recently transferred to private entities. The ambitious privatization program the country has initiated in 2011² so as to reduce its public debt and support economic recovery, emphasizes the need for a larger involvement of private sector in real estate development and in planning processes as well.

At the same time, several initiatives towards a more market-oriented planning have been activated. Traditional land-use planning has been accused of creating important obstacles to establishment and investment because of excessive regulation, delay and uncertainty³. Indeed, according to OECD, "*Boosting investment*

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¹ Article 24(2) of the Greek Constitution places urban and regional planning under state authority and control.

² The Hellenic Republic privatization scheme is the largest declared divestment program in the world. It is aiming at attracting international capital flows that will contribute to reducing Greece's public debt, spreading knowledge and capital into critical sectors of the Greek economy, and supporting the country's economic recovery. The privatization program has been launched on July 2011, under the medium-term fiscal strategy the country adopted in June 2011 (L. 3985/2011). The program includes a large inventory of state-owned assets that are grouped in three major categories: real estate, company shares and rights. In the field of real estate, the scope of the privatization programme encompasses more than 70.000 properties of the public sector that are currently managed by public real estate companies and by various Ministries. The aim of the real estate development and sale programme is to generate proceeds of €25 bn euro. The privatization process of public sector's private properties is described in L. 3986/2011. The latter provides for institutional alternatives to traditional land-use planning, mainly through the establishment of a special planning regime, both substantive and procedural, for the development and the transfer of public land to private investors. For more information, see: <http://www.hradf.com/en>

³ Hellenic Federation of Enterprises (2010), *Entrepreneurship without obstacles*, November 2010, p. 14. Available at: http://www.sev.org.gr/Uploads/pdf/30embodia_big_2_12_2010.pdf (last accessed: 30 November 2012); Giannakourou, G. (2010) "Investment land-planning in Greece: problems and solutions" in: Foundation for Economic and Industrial Research (IOBE), *The Greek economy*, 4/2010, p.

[in Greece] also hinges upon addressing land-use problems firms face during start-up by setting clear and adequate rules for spatial planning”⁴.

Under these constraints, the role of spatial planning is rapidly changing in Greece. Planning, as a whole, is called to facilitate and support market interests and private initiatives instead of only regulating and controlling private development. The shift from a reactive and defensive planning culture to a proactive and enabling one seems to be the main challenge for the future.

The concern for a more flexible and responsive planning system goes along with the search for a greater involvement of private entities in the production of development plans and in their implementation as well. So, although urban planning still largely remains within the government domain, several trends in current Greek planning legislation suggest a certain privatization of planning tasks. Among them we should notice the increasing involvement of private developers in the preparation and realization of zoning plans, the outsourcing of planning assessments and controls to private consultants and practitioners and, finally, the management of public spaces and of entire urban areas by private entities. These forms of privatization of Greek planning will be discussed in the next sections of this paper.

2. Legislation concerning the initiative and drafting of land-use plans

2.1. Brief overview of the Greek spatial planning system

In order to facilitate the understanding of the situation in Greece concerning the involvement of private entities in the preparation of zoning plans, a brief overview of the Greek planning system is given below.

According to the Greek Constitution (voted in 1975 and revised in 1986, 2001 and 2008), spatial planning is placed under the regulatory responsibility and the control of the State, in the aim of serving the functionality and the development of settlements and of securing the best possible living conditions (Article 24 par. 2). The Constitution contains provisions regarding land development in urban areas, the contribution of landowners towards securing land for social facilities and amenities, land acquisition, housing for low-income groups, and management of the natural environment⁵.

In Greece, urban and regional planning was for a long time the sole responsibility of the central state. However, in the 1980s and in the 1990s but mainly after the 2010 administrative reform (‘Kallikratis’ Programme)⁶, regional administrations and local

103-110. Available at: http://www.iobe.gr/media/engoik/IOBE_Eng_econ_04_10.pdf (last accessed: 30 November 2012)

⁴ OECD (2011) *Economic Surveys: Greece 2011*, OECD Publishing, p. 135.

⁵ Commission of the European Communities (1999), *The EU compendium of spatial planning systems and policies. Greece*, Luxembourg: CEC, p. 22.

⁶ L. 3852/2010.

authorities were given more power and planning responsibilities through a process of 'limited', due to constitutional restrictions, decentralization. Currently, the formulation and approval of all urban master plans, statutory town plans, housing plans and environmental protection programs is within the competence of central state (Ministry of Environment, Energy and Climate Change), while the 13 Regions of the country (2nd tier local authorities) and the 323 Municipalities (1st tier local authorities) have limited powers in planning-making. Their responsibilities concern mainly the initiative for the preparation of a land use plan, the implementation of the plan and the issuance of the building permits as well.

Planning in Greece is carried out at three basic levels: national, regional and local. Each level of planning corresponds broadly to different types of plans, with strategic and framework plans mainly operating at national and regional levels and regulatory town plans and zones at local level. Existing legislation establishes a hierarchical structure between different levels/kinds of planning with the higher tier being binding on the tiers below it. Table No 1 indicates the main planning instruments corresponding at each level of planning.

Table 1: Simplified structure of the Greek planning system

Level	Plans
National	National Spatial Planning Framework
	Special/Sectoral Spatial Planning Frameworks
Regional	Regional Planning Frameworks or Plans
Local	General Urban Plans (GUPs)
	Town Plans
	Implementation of Town Plan

Spatial plans at the national and regional levels are not legally binding for the citizens. On the contrary, land uses included in plans at the local level are legally binding. Even though land use planning may be an outcome of a private entity's initiative, the whole process remains under the state's authority. The latter has the power to approve (or not) the detailed land use plan which must always follow the general directions of a framework planning of an upper level. Moreover, the land-use plan must be in accordance with technical specifications approved by the State.

Involvement of private entities in the preparation of a land use plan may occur either in the framework of 'state planning' or as a result of a private entity's initiative for the urban development of a property area.

2.2. Land use planning as a result of state's initiative

General Urban Plans

General Urban Plans (GUP) provide the general guidelines for an area's urban development, covering the whole space within the administrative borders of a municipality. These plans define land uses and average floor area ratios for future land development, general standards for green spaces and basic needed infrastructure as well. They also indicate, within the plan area, special development zones where development for residential, tourist, industrial, commercial or other purpose may take place on the initiative of either a public agency or a private developer.

The initiative for drafting a General Urban Plan falls under the responsibility of the relevant Municipality or under the responsibility of the Ministry of the Environment, Energy and Climate Change⁷. General Urban Plans are ratified by the General Secretary of the Decentralized Administration (appointed by the government) or by the Minister of the Environment (in the metropolitan areas of Athens and Thessaloniki).

In most cases, General Urban Plans are being elaborated by private planning consultants⁸. "In house" preparation is equally possible. However, nowadays, only a minority of municipalities and state agencies use this possibility due to lack of competent staff to draw up drafts of land-use plans⁹. In any case, precise technical specifications¹⁰ have to be taken into account by the private consultants or the public servants who are commissioned with the drafting of the plans.

In both the aforementioned cases, the democratic legitimization in the process of adopting a land use plan is being guaranteed through the involvement of the Municipal Council in the making of the plan. The Municipal Council has the power to decide on the content of the draft plan and adopt it, amend it or even reject it¹¹. It has to be said, however, that the decision of the Municipal Council is not binding for the authority responsible for the approval of the plan (General Secretary of the Decentralized Administration or Minister).

Existing legislation provides also for the involvement of citizens and organizations in the making of General Urban Plans. Public participation must take place before the approval of the plans and can take the form of open houses, public hearings or any

⁷ L. 1337/83 (Art 3); Code of Basic Urban & Regional Planning Law (Art 83).

⁸ The legal framework for a public or local authority to delegate the drafting of a zoning plan to private firms is being described in the public procurements Law 3316/2005 which has been legislated in accordance with the Directive EC/2004/18.

⁹ Due to significant downsizing of the Greek public sector, the competent agencies suffer nowadays from a lack of specialized staff. The few public servants remaining in the central, regional or local agencies are mostly left with administrative tasks (supervision, proof reading etc), while substantive planning tasks (e.g. drafting of plans) are outsourced to private consultants.

¹⁰ Ministerial Decision 9572/1845/2000 (Government Gazette 209D/2000).

¹¹ L. 1337/83 (Art 3 par.2, 3).

other equivalent action which may guarantee the expression of the citizens' views on the draft of the General Urban Plans¹². Consultation with the public and with the interested stakeholders may also take place within the framework of the Strategic Environmental Assessment¹³ accompanying the procedure for the adoption of General Urban Plan. Finally, after the approval of a General Urban Plan, challenges against the content of the plan or/and the procedures followed during its preparation can be brought before the Council of State (supreme administrative court) by natural or legal persons suffering material or moral injury by the act challenged.

Town Plans

Town Plan is a generic term which covers a variety of zoning plans at the local level and applies in the 'within-the-plan' areas¹⁴. These plans determine street alignments, building lines and land-use designations and are accompanied by a building ordinance¹⁵. The Town Plan aims, among others, to define land uses in accordance with standard land-use categories, private development land and land for community use.

As in the case of the General Urban Plan, the initiative for drafting a Town Plan falls under the responsibility of the relevant Municipality or of the Ministry of the Environment, Energy and Climate Change¹⁶. The possibility to delegate the preparation of a Town Plan to a private entity (urban planning consultant or firm) applies also in this case, with the obligation of the private entity to follow, during the preparation procedure, the statutory technical standards established for Town Plan' drafting.

Interested parties (citizens or legal entities) have the right to lodge appeals against the content of the draft plan after the text and the maps have been displayed in the Town Hall¹⁷. The Municipal Council is forwarding all the appeals, along with its opinion on the plan, to the competent authority (the Ministry of Environment) which has the final word about the oppositions against the plan. The opinion of the Municipal Council is only consultative and not legally binding for the Minister. The latter has the right to adopt, amend or even reject the proposal of the Municipal Council on the draft plan. Additionally, he can proceed to the approval of the plan

¹² L. 1337/83 (Art 3 par.2).

¹³ Article 7, par.4.2, of Ministerial Decision 107017/2006 (Government Gazette 1225B/2006).

¹⁴ Within-the-plan areas and out-of-plan areas are a major distinction in Greek planning legislation. Within-the-plan areas are covered by statutory town plans, where by contrast, out-of-plan areas are not covered and regulated by town plans. However, according to existing legislation, these areas are not devoid of development rights and are not necessarily wild, natural, or agricultural land. See also Giannakourou, G. - Balla, E. (2006) "Planning regulation, property protection and regulatory takings in the Greek planning law", Global Studies Law Review, Vol. 5, Issue 3, σ. 535-558. Available at: http://law.wustl.edu/wugslr/issues/volume5_3/p535GiannakourouBalla.pdf (last accessed:30 November 2012)

¹⁵ Code of Urban and Regional Planning Law (Art 43).

¹⁶ L. 1337/1983 (Art 6).

¹⁷ Code of Urban and Regional Planning Law (Art 154 par.1).

without a prior consultation with the interested Municipal Council if the latter has not given its opinion within a certain time period¹⁸.

Table 2: The role of private entities in state-led land use planning

Type of Plan containing legally binding land uses	Prepared by	Frequency	Control of planning powers	Public Participation
<i>General Urban Plan (GUP)</i>	Civil Servants	rare	Yes	Yes. - Open houses, public hearings etc. and - Public consultation within the framework of the Strategic Environmental Impact Assessment.
	Private urban planning consultants	often	Yes. - The draft of a land use plan is under the administrative responsibility of the state. - Expression of a non-binding opinion of the local council is foreseen in the relevant legal framework	
<i>Town Plan (TP)</i>	Civil Servants	rare	Yes	- Yes. Every interested person can lodge appeal within a limited period after the text and the maps of the draft plan have been displayed in the Town Hall.
	Private urban planning consultants	often	Yes. - The draft of a TP is under the administrative responsibility of the state - Expression of a non-binding opinion of the local council is foreseen in the relevant legal framework	

2.3. Land use planning as a result of private developers' initiative

Greek planning law contains several 'zoning' mechanisms which allow a private entity to take the initiative for the urban development of an area either for residential, tourist, industrial or for other kind of purposes (see Table 3). In this case, private entities must obtain prior development consent from the relevant state authorities for: a) the designation of an area as residential, industrial, tourist or entrepreneurial zone and b) for the approval of the surface area, the boundaries, the content of the development and the overall land-uses as well. The relevant legal framework gives the opportunity to the regional councils to express their opinion in the process of the designation of these areas even though the consent of the local authorities is not necessary. On the contrary, if the regional council does not express its non-binding opinion within a certain time period, the process may continue without it.

After the issuance of the development consent, private developers must prepare a detailed land use plan ('town plan' study) which contains detailed land uses of the area under development, any additional prohibition or obligations, the infrastructure networks maps, the special building conditions (*building ratio, floor area etc*), as well as the public and social community spaces. The preparation of this study must follow specific technical standards established by the Minister of the Environment for the

¹⁸ Code of Urban and Regional Planning Law (Art 154 par.3).

drafting of town plans. The approval of the 'town plan study' falls under the state's responsibility and takes the form of a Presidential Decree in most of the cases.

Table 3: The role of private entities in private-led land use planning

Special 'zoning' mechanisms for the private development of an area	Initiative for the designation of an area as a special zone appropriate for private development	Control of Planning Powers	Public Participation
Specially regulated areas for private development <i>(PERPO, article 24 of Law 2508/1997)</i> Purpose of development: residential	By the private entity	Yes. The designation of a PERPO zone can take place: <ul style="list-style-type: none"> - in areas with defined land-uses from an approved, by the Ministry of the Environment, GUP as appropriate for residential private development - In areas appropriate for residential private development according to the approved, by the Ministry of the Environment, General Guidelines for PERPO in regional or sub-regional level 	- Yes. In the framework of the Strategic Environmental Impact Assessment
Integrated Tourism Development Areas <i>(POTA, article 29 of Law 2545/97)</i> Purpose of development: tourism	By the private entity	<ul style="list-style-type: none"> - Yes. For the designation of an area as a POTA, the private entity should obtain prior development consent from the Ministries of Environment and Tourism approving the surface area, the boundaries and the content of the development and the overall land-uses as well. - Non binding opinion by the regional council prior to the delivery of the development consent 	Yes. In the framework of the Strategic Environmental Impact Assessment
Integrated Development Areas for Productive Activities <i>(POAPD, article 10 of Law 2742/99)</i> Purpose of development: entrepreneurial activities, primary, secondary or tertiary sector	By the private entity	Yes. <ul style="list-style-type: none"> - For the designation of an area as a POAPD, the private entity should obtain prior development consent from the Ministry of Environment approving the surface area, the boundaries and the content of the development and the overall land-uses as well. - Non binding opinion by the regional council prior to the delivery of the development consent 	Yes. In the framework of the Strategic Environmental Impact Assessment
Entrepreneurial Parks <i>(Law 3982/2011)</i> Purpose of development: industrial, entrepreneurial, logistics, research centers, clusters of high technology etc.	By the private entity	Yes. <ul style="list-style-type: none"> - The designation of an Entrepreneurial Park can take place in areas appropriate for this kind of development according to the provisions of a) the national or sectoral spatial planning frameworks or b) the General Urban Plan - For the designation of an area as an Entrepreneurial Park, the private entity should obtain prior development consent from the Ministries of Development and Environment approving the surface area, the boundaries and the content of the development and the overall land-uses as well. - Non binding opinion by the regional council prior to the delivery of the development consent 	Yes. In the framework of the simple Environmental Impact Assessment

3. Legislation concerning the outsourcing of planning and environmental services to private entities

Control and enforcement of public zoning and building regulations in Greece has been traditionally a task of public authorities, in particular at the local level. The same applied for the issuing, control and inspection of building permits.

However, things have changed recently with the vote of L. 4030/2011¹⁹. The new law provides for a clear separation of powers and functions between licensing authorities on the one hand and inspection authorities on the other hand. The licensing function is entrusted to the Building Services of Municipalities while the inspection function is delegated to independent certified private inspectors operating under the supervision of the Ministry of Environment.

Certified building inspectors are building practitioners, engineers or architects in particular, with sufficient education and work experience in construction works, which, after attending successfully special seminars on building controls and regulations and undergoing relative examinations, are enlisted in the Register of Building Inspectors. Among their powers is the control of all constructions for which a building permit has been issued so as to ensure that the technical studies according to which the permit has been granted are properly implemented and enforced. The status of a certified inspector is incompatible with the status of a government official or employee in the public sector.

The outsourcing of building inspections to private entities is not the only expression of the privatization of planning powers currently experienced in Greece. Apart from building inspections, private entities may also perform assessment tasks in the field of environmental licensing. In this respect, L. 4014/2011 (art 16) provides for the creation of a special Registry of Certified Assessors for the evaluation of Environmental Impact Studies. Certified Environmental Assessors (CEAs) are environmental practitioners with sufficient education and work experience in environmental assessments and controls who, after accreditation, may receive mandates from a government authority to undertake the evaluation of Environmental Impact Studies concerned with the realization of public or private development projects. In this regard, CEAs are entitled, whenever requested by the responsible government authority, to proceed to a thorough examination of the environmental report submitted to public services, make any necessary contacts with authorities designated to be consulted on the environmental report and draft the environmental terms to be included in the environmental license.

¹⁹ L. 4030/2011 (Arts 10-15), Government Gazette 249A/2011.

4. Legislation concerning the private management of public spaces and entire urban areas

The management of public spaces and entire urban areas is broadly perceived in Greece as a public duty. Indeed, according to the Municipal Code²⁰, Municipalities are competent, among other things, for street cleaning and lighting, refuse collection, maintenance and management of water supply and sewerage networks, maintenance and management of municipal sports facilities, municipal parks and gardens, youth centers and municipal buildings in general.

In the areas where a town plan is being approved on the initiative of the state (*supra* section 2.2.), the costs and the responsibility for the maintenance and the management of public amenities are undertaken by the Municipalities. In areas where schemes of private land-development are being approved (*supra* section 2.3.), Greek planning legislation provides in some cases (as in the cases of tourist estates, commercial estates and other zones designated for productive activities²¹) that the private developers have to undertake the costs for the maintenance of the relevant public amenities (within the zone/area). However, even in these cases, the management of public spaces (eg. roads, squares, parks) created within the zones or areas of private development still falls within the responsibility of the local authorities.

A different, more radical, approach for the management of urban areas has been set out in recent planning legislation produced in view of the privatization process of public real property. So, according to L. 4062/2012 which establishes the general legal framework for the development of the former Hellinikon International Airport, the private investor to be selected throughout the sale process will be charged both with designing and carrying out the site development process and with financing the infrastructure works and managing the urban areas to be created during the development. Indeed, according to Art. 3 par. 2 of the aforementioned law, the private investor is the only responsible to proceed to the execution of the area development works, after the approval of the urban plan. The maintenance, cleaning and renewal of the public technical equipment, as well as the maintenance of the infrastructure works and of the green spaces, is made at the expense and under the diligence and responsibility of the private developer, by way of derogation from any relevant provision.

The same model of land development and management applies for other public property assets offered for residential and tourist uses under the current privatization program. In particular, public properties proposed to be developed as holiday-tourist villages or entrepreneurial parks must be equipped with a special zoning plan prepared under the initiative and the expenses of the private investor and approved by the state through a joint ministerial decision²². The implementation of the plan falls within the exclusive initiative and responsibility of the main investor. In this respect, the maintenance, cleaning and renewal of the public technical

²⁰ L. 3463/2006 on the ratification of Municipal Code (Art 75).

²¹ L. 2545/1997 (Art 29); L. 2742/1999 (Art 10).

²² L. 3986/2011, as amended by L. 4092/2012 (Art 12, par. 7).

equipment, as well as the maintenance of the infrastructure works, the traffic network and the green spaces is made at the expense and under the diligence and responsibility of the private developer, by way of derogation from any relevant provision²³. The main investor, when transferring or granting property rights to third parties, may allocate proportionally, through contractual agreements, the cost for the construction and maintenance of shared equipment, infrastructure, traffic networks and green spaces to owners and lien-holders as well.

The aforementioned provisions reflect a new model for land development in Greece where the whole planning process (plan preparation, land and real estate development, construction of infrastructure and operation for the entire development as well) is undertaken, almost exclusively, by a private investor. The role of the state is limited in the approval of the plans and the delivery of consents and permissions required for the development of the area, while the developer bares the costs of the development, construction and management of the whole area. For the time being, this new model is applied only on the public properties to be exploited and developed by private entities within the framework of the country's current privatization program. It remains, however, to be seen whether this new approach may serve as a guide for other private-led urban developments in the future.

5. Conclusions

The privatization of planning powers and planning processes is gaining momentum currently in Greece due mainly to the country's financial and economic crisis, the increasing government downsizing and the rise of a more market-oriented planning strategy during last years. Under these factors, Greek spatial planning becomes more dependent on private sector resources and development initiatives. This explains the increasing involvement of private sector in both the preparation and the realization of land use plans and in the management of public spaces and entire urban areas as well.

The expansion of private sector in the area of urban planning includes private consulting firms and private developers as well. Private consultants, engineers in particular, have an important role in drafting various kinds of plans, while they are, in parallel, responsible for testing environmental impact studies and undertaking building inspections. Private developers, on their part, may proceed to plan preparation and land and real estate development of privately-owned properties/ areas in accordance with the procedural and substantive rules provided in existing planning legislation. In certain cases, provided by law, they may even undertake the management of the entire development area, urban infrastructures and public spaces included.

²³ L. 3986/2011, as amended by L. 4092/2012 (Art 12, par. 7).

Greek planning legislation is currently under reform. This reform aims, among other things, at reducing planning barriers for business development and creating more scope for private initiatives²⁴. If these objectives are reached, planning reform will lead to a smaller role for public actors in planning making and implementation. Hence, an increased role for private entities in urban development and management would be foreseen.

²⁴ Ministry of Development, Competitiveness and Shipping (2012), *Promoting a Business Friendly Greece. Action Plan to support entrepreneurship and improve structural competitiveness*. Available: http://www.mindev.gov.gr/wp-content/uploads/2012/03/12.03.05_bfg_actionplan_en.ppt (accessed: 30 November 2012)