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**"PLANNING BY DECREE": INCOMPATIBILITIES OF PLANNING LAWS AND PLANNING
POLICIES IN GREECE, DURING THE 20th CENTURY. ANALYSIS, PERSPECTIVES.**

**Track 16: Planning and Law
Individual formal paper**

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1. Introduction. Developing common semantics.

Law

1. Rules of conduct of any organized society, however simple or small, that are enforced by threat of punishment if they are violated. (Columbia Encyclopedia, Sixth Edition, 2001).
2. a. A rule of conduct or procedure established by custom, agreement, or authority. B. The body of rules and principles governing the affairs of a community and enforced by a political authority. (The American Heritage® Dictionary of the English Language: Fourth Edition. 2000).

Policy

1. A plan or course of action, as of a government, political party, or business, intended to influence and determine decisions, actions, and other matters. (The American Heritage® Dictionary of the English Language: Fourth Edition. 2000).
2. An official or prescribed plan or course of action. (Roget's II: The New Thesaurus, Third Edition. 1995).

It seems that, according to "official" definitions, the main differences between laws and policies are that laws are enforced / established by authority, they are obligatory for everybody concerned or specified, and they are "static" in not encapsulating change, variety or dynamic development. Policies are intended to influence or determine actions, in order to achieve goals or objectives, and this is why they need more inputs and energy invested in order to succeed. They are more flexible than laws, they might propose alternative procedures or actions, they are not enforced by threat of punishment if violated, and they have to be supported by active participation of concerned agents, as a prerequisite for their implementation.

Definitely, there is a certain area of overlapping between the two notions, and specific subjects can be treated either by laws or by policies –depending on other factors. In principal, though, policies and laws might not only coexist, as it concerns specific subjects, but they compliment each other in the course of actions. In planning (urban and regional), planning laws, usually, are supposed to set the institutional framework within which planning policies are introduced and planning practices are implemented. They have a supportive role to planning policies and they aim to secure good planning practices and urban and regional development, towards desired destinations.

In contemporary planning history of Greece, effective coexistence and complementary function of policies and laws were seldom achieved. This has affected a lot, effectiveness as well as attempts for planning implementations. The relationship of laws and policies in planning and their dependency on specific factors will be analyzed through the description of the case of Greece, with reference to subsequent periods of "planning eras".

2. The period of the new Greek State, after the Turkish occupation and until the disaster of Asia Minor (1827-1923). The first steps in planning.

Greece was part of the Ottoman Empire during the period 1453 – 1821. At 1827, Greece became an independent state after a revolution, which erupted at 1821. The first period of contemporary Greek planning history starts then. During this first period, the Royal Decree of 3-4-1835, «Concerning the «healthy» structuring of cities and towns set the foundations of Greek planning legislation. The main objective of this decree has been declared in its title: to ensure the very basic needs of urban construction and more specifically, to secure public health "which is enforced by the police". Its main focus was on construction of individual buildings and not in the city as a whole. At the same time, urban plans were made for several cities: Patras (1828), Pylos (1829), Athens (1830), Nafplion (1834) etc. The elaboration of these plans was independent of the R.D. 3-4-1835 and they were not based on any existing legislation. They were rather expressions of planning policies on a local level, where local authorities, and mainly city mayors, were holding an important role. Later on, there was an

effort to combine planning policies and legislation: Royal Decree of 5-6-1842, concerning Urban Plans of Athens and Ermoupolis, and Urban Planning Law of 1867 (known as Sclavounos' Law) concerning urban plans for the rest of Greece, established, for the first time, the notions of housing squares, building regulations etc., with global applicability. Various pieces of legislation were also approved, with subjects concerning road construction, development across the waterfront, transportation arterials, the establishment of a Directorate of Public Works and the Official Body of Civil Engineers, etc.

During this period, one could observe a transition from a situation where, there were planning policies on a local level, with no common legal framework, to a situation of centralization of planning initiatives, but increasingly more as pieces of legislation and less as policies. This has to be examined in conjunction with developments in the structure of local administration in the new state. While the system of central administration in Greece changed completely after the liberation from the Ottomans, local administration came almost intact out of the war, both in structures and in persons. Ottoman empire had a decentralized administrative structure, with ethnic groups were organized in local units with their own local authorities and relatively high degree of autonomy. City mayors were powerful political figures, and they continued to hold their strong position right after the establishment of the new Greek state. The above-mentioned first city plans were due, partly to initiatives of local power holders. Gradually, though, it became apparent that since central administration's prime concern was to create a strong state with a new identity, administrative changes were not targeted in satisfying functional and developmental needs, but in imposing central authority in every local region and enforcing the role of central state in intervening and controlling local affairs. The focus was on the political sphere and the main aim was to reduce and control the political power of mayors, since it was considered destructive for most central political initiatives –with clientelism and corruption being, then, the main characteristics of local administration. The gradual weakening of local administration started, by redirecting taxation from local sectors to State Revenue Office, at 1823, and ended in reducing the administrative area of local units by creating a network of smaller communities/villages (koinotita) with an average size 12 times less than the previous municipalities. These changes marked a turn from uncoordinated local planning initiatives to centrally formulated planning legislation. In terms of official involvement of local administration in urban planning, there were never institutionalized provisions for any kind of participation, either by the public or by local authorities. Local political figures, though, could influence planning through political pressure and clientelism, being more effective when their position was stronger.

In summarizing the above, one could conclude that during the first period of planning history in contemporary Greece, planning was mainly urban, while regional planning did not exist. There was no consistent legislation, nor well-defined planning policy. Also, from a stage of strong local administration, right after the liberation, Greece went to a stage of strengthening central government and weakening local administration. This was also reflected in an increase in the production of planning laws, a reduction in the production of urban plans, and also in reducing the ability of local administration to indirectly influence planning policies through indirect political pressure and clientelism.

3. 1923: The disaster of Asia Minor. Exchange of populations. First major attempt to combine planning policy and planning law. Then, stagnation until early '70s.

At the beginning of the second period (1923-1970), after an unsuccessful attempt of the Greek army to invade deep in Asia Minor and a subsequent defeat by the Turkish army, Greek state had to face an urgent need to resettle 1,300,000 refugees who fled the country. This period marked the first time that there was active and organized planning policy from the part of central government, and this policy was backed by equivalent legislation. It is considered that the State intervention in resettling and housing the refugees at that period - given the then harsh circumstances- was the most successful function of the Greek State in all its history. It was one of the very few times that the Greek State accepted sharing of responsibilities in this effort –and this, after pressure of the then Society of Nations which was financing part of the campaign. Three organizations were formed: the Committee of Resettling Refugees –an independent public/ private organization-, the Aid for Refugees Fund, which

was administered by industrialists and bankers –indicating the interest of big capital for the sector of construction- and the Ministry of Welfare, which was the only purely governmental body.

Since the up to then legislative framework was inadequate to support these efforts, the government proceeded in passing a law privileging private enterprise. This is the 17-7-1923 Legislative Decree "Concerning the plans of cities, townships and communes of the State" which, with a series of decrees, amendments and the General Building Regulations Code, has been the exclusive legislative framework, centrally controlled, for more than 60 years. Law 17-7-1923 was advanced for its time (Christophilopoulos, 1983; Karadimou and Kafkoulas, 1984; Karnavou, 1987; Lagopoulos, 1984). Its basic characteristics were a courageous attempt to organize space by setting the regulations for elaboration of city plans, and an inadequate and excessively hesitant intervention on private property rights -that were, in general, overprotected. In L.D. 17-7-1923 one can detect the first hesitant steps towards institutionalization of local administration involvement in urban planning, along with some initial traces of public participation. Individual citizens had for the first time the right to object to the plan by submitting written appeals, and local administration "had the obligation" to express an opinion about city plans and interventions in urban space, which were exclusively conducted and decided about, by central government ministries and agencies. Within this framework, policies could only originate from central government, since local administration did not have either the authority or the financial and organizational abilities to formulate and implement them.

Political instability was a feature of the period that followed, (mid 30s), ending and culminating in a Civil War (1944-1950), which found the country, destroyed and bitterly divided. The rising lower middle class strata (petty landowners, self employed professionals, public employees) were gradually becoming so strongly dependent on the state that their main interest "was not so much in increasing production and in planning the economy but in the strengthening of their position in the state apparatus for the purpose of directly appropriating the surplus" (Tsoulouvis, 1987). The period after mid-30s and until early 70s was characterized not only by the absence of effective planning policies but also by stagnation in planning legislation. Legislative framework of Law 17-7-1923 was kept active until 1971, without any major changes, but with a lot of modifications concerning specific issues, often contradicting and reversing each other, and so, adding to a general confusion of "what applies where". During this period, more than 50 urban plans were prepared from various ministries, this being indicative of the extent of duplication of responsibilities in the cabinet structure. From these plans, none was ever implemented completely, due to the complexities of legal requirements and the very slow pace of the implementation procedures. (Voivonda et al, 1977).

In general, it can be said that the concept of "city plan" ended up having as its main concern, the alignment of streets and the use of rectangular grid, and this could not lead to any enrichment of urban design goals. This is precisely the symptom of a situation where laws substituted policies, and thus, the element of dynamic change was eliminated. At the end of this period, the negative effects of the inadequacy of the regulative framework of Law 17-7-1923 -uncontrolled urban development, huge delays, illegal construction etc.- inevitably led to efforts for the elaboration of a more effective planning system.

4. 1970-1981: Excessive production of planning laws. Shortage of planning policies.

At the beginning of '70s, two laws were produced: Legislative Decree 1003/1971, "Concerning active urban planning", and Legislative Decree 1262/72, "Concerning master plans for urban areas". Both of them were introduced during the military dictatorship in Greece (1967 – 1974) and they were based mainly on French models, with some added elements from German planning legislation. L.D. 1003/1971 was orientated towards comprehensive urban planning, incorporating physical, economic, social and aesthetic factors for zones designated for development or improvement (ZEP). It was implemented only twice. Its significance can be accepted only in terms of theoretical enrichment because it introduced new methods for the intervention in urban space. Its basic defects were that it allowed uncontrolled intervention by private sector and that no provision was made for a plan covering

a wider area in order to provide a context for the ZEP. Legislative Decree 1262/1972 defined the concepts of "regional plan", "master plan", "urban plan", and "land use". This law was never implemented because of its inflexibility, the lack of a global approach to urban planning (Karadimou et al, 1984:287), the inability for planning implementation from the part of the state machinery and the indifference at the views of local administration and the public alike. Finally, in the legislative domain of this period, one should also add the General Building Code of 1973, which also did not offer much to improve the then practices and approach.

In mid '70s, the inadequacies of the existing planning system became particularly pressing. Two major cities, the Athens/Piraeus conurbation, and Thessalonica dominated urban hierarchy. From 1951 to 1981 the population of Greater Athens increased from 1.4 to 3.1 million, and that of Greater Thessalonica from 300000 to 800000 approximately. At 1981, population of Greater Athens represented 31% of the total population of Greece. Illegal construction, that initially appeared right after the Asia Minor disaster, grew out of proportion and dominated the housing problem. Illegal houses, or constructions with illegal parts, were estimated to reach 25-30% of the total number of constructions at 1981. The situation in the inner cities was also far from encouraging. The intensity of land exploitation resulted in high total floor area / plot area ratios and high densities in central areas. Open green spaces were rare. (In London and Rome, the ratio of square meter of parks per city dweller is 9, in Vienna it is 15, in Paris it is 8.4, and in Athens it is only 2.7. In some municipalities around Athens it is even less: in Moschato it is 1.7, in Tavros it is 1.3, and in Kallithea (population 200,000) it is only 0.2. (O.E.C.D., 1983:40)). CBDs and other concentrations of economic and administrative uses resulted mainly from private initiative, without deliberate planning. Development of the central city was accompanied by the destruction of the historic character of its older parts and by poor functional organization. Considerable traffic problems also existed in the city centers, where public transport was poor, parking space was inadequate and the number of private cars was steeply increasing. There was an almost total lack of proper drainage, which was causing periodic flooding of roads and basements. In addition, the dumping of sewage and industrial wastes with no previous processing, created serious pollution of the natural environment. Industries were scattered in an unplanned manner in and around the cities, there was environmental pollution and poor housing quality.

The dramatically declining conditions of urban and rural areas created a sense of urgency for planning interventions and also, triggered some efforts to introduce regional planning, but again, mainly in legislation and less in policies. The efforts started with article 24 of the Constitution of 1975, which provided general principles and guidelines about Urban and Regional Planning and the Environment, considering, for the first time, planning policies as being of priority over private property rights. Consequently, a series of laws, amendments and presidential decrees were produced, concerning the establishment of the Ministry of Planning, regional planning, urban planning, building regulations, protection of the forests, parking spaces, constructions in rural areas, illegal housing, construction in settlements older than 1923 (when L. 17-7-1923 was enacted) etc., etc. From all the above, Law 947/1979 "concerning planned development areas", can be considered as the most significant product of this period and aimed in modernizing urban planning in view of full membership of Greece in the European Community. Its major objective was to provide for mass production of housing (Lagopoulos, 1984:140). The role of the state was not just regulatory any more, but also one of intervention and initiative. This new approach was based on a different view about the protection of the environment and private property rights that was also encapsulated in the new constitution of Greece, of 1975. Law 947/1979 resembled equivalent legislations of Germany and France. According to it, urban planning consisted of two phases: the General Study and the Urban Study. The first was mostly of a strategic nature with reference to general land uses, alternative ways of development or improvement, phasing of the development, and an estimate of the environmental consequences of the proposals. The second phase included of three possible ways of development or improvement: active urban planning, urban land consolidation, and normative building regulations.

Despite the intensive law production of this period, the planning outcomes were poor. From all the above, only one piece of legislation was combined by equivalent policy and achieved some degree of implementation. This was Law 360/1976 "concerning Regional Planning and the Environment", which was partly implemented in the studies of KEPA (Centers of Urgent

Planning Intervention). According to them, five middle sized Greek cities were supposed to develop in new Metropolitan areas, in an effort to counterweight the attraction of the two biggest cities, Athens and Thessalonica, and prevent the further desertification of countryside. Unfortunately, only two (out of five) studies were finished and approved, but none of them was ever implemented. Law 947/1979 was also never implemented, because local authorities, architects, urban planners, and political parties objected to it and characterized it "reactionary" and "unfair" because of two characteristics: first, private organizations and individual citizens were given the right to formulate planning policy and second, "property owners, whose participation in the planning process was still rudimentary, were required to concede a proportion of their plots for the organization of open spaces, (25%), and to make cash contributions for the construction of the basic infrastructure. These measures reinforced the effectiveness of the state, but also that of big capital. They are based on sound principles, but in their specific contents they discriminate against small property, and in practice they would create serious social problems." (Lagopoulos, 1984:139).

As it can be seen, this period was characterized by an excessive production of legislation, which remained inactive or was abandoned, since there were no policies to function accordingly and no strategy and means for implementation. The "status" of different levels of administration, as it concerns planning rights and political power, can be considered as a key factor for this. In this very much-centralized system, the process of implementation of city plans was always controlled by central government, while local authorities had been powerless. Considering the importance of patron-client relations that has always been the case in Greek politics, central control of local processes meant that political personalities who had access to the government could exercise pressure for the extension of the city plan and the modification of the building regulations to the benefit of their clientele. Municipalities were not in an institutional position to formulate policies and furthermore, could not even afford the implementation of central planning policies. Thus, implementation processes were always delayed, even for decades. This also caused a distortion in the perception of local authorities about their role and duties: even in cases where local authorities had money for expropriation -and this was usually happening when they belonged to the same political party with the central government- they were using them against their political opponents, and with the blessings of the center (Lepesis, 1989). Urban plans were not supported by local authorities, organizations or/and the public, since the procedure for their elaboration systematically ignored and avoided participation procedures, except for the typical and limited process of written appeals. What also characterizes this period is that regional planning started being mentioned and legislated about -but not yet implemented.

5. Urban Reconstruction Operation '82-'84. Second major attempt to combine planning policy and planning law. Infanthood of regional planning.

In 1981, the new government of PASO (Pan Hellenic Socialist Movement) came to power with a very ambitious program, part of which was a new urban and regional planning policy and a new planning law to support it. They were Law 1337/83 and the Urban Reconstruction Operation (EPA) 82-84 together with the Regional Planning Proposals for each prefecture of Greece. Historically, this was the second time in Greek planning history (after 1923) that a national policy was introduced, participation of wide sectors of Greek society was brought into action for its implementation, and a legislative framework was elaborated to provide institutional support and general guidelines.

The policy of the "Urban Reconstruction Operation (EPA) 1982-1984" started as a very significant and ambitious program of the Ministry of Urban and Regional Planning and the Environment (then YHOP and later YPEHODE, after the merging with the Ministry of Public Works). It was supposed to interrelate to Law 1337/1983. Initially it included 450 municipalities, which were chosen in terms of their size and importance, and three systems of settlements (the islands of Kythira and Thassos, and Trezina of Attica). These municipalities started being planned for, according to prescriptions defined in Law 1337/83.

Law 1337/1983 was introduced as a transitional urban planning law in order to replace some parts of Law 947/79 and modify others. In fact, a situation was created whereby planning

legislation now consisted of parts of the legislative framework of 1923, parts of the Law 947, and the new Law 1337/1983. This was supposed to last for a limited period of at most five years, in order to cover the then urgent needs, until a new, complete planning law could be studied and proposed. Instead, only few of its articles were modified two years later by another law, Law 1512/1985, while the legislation, which was supposed to provide a complete framework for urban planning, came much later, at 1997. According to Law 1337/1983, there were two levels of plans: the general development plan and the revision/extension plan, or urban study. The former was similar to the master plan of previous laws but gave more emphasis to implementation. Active urban planning and urban land consolidation of Law 947 were retained, while the concepts of zones of special reinforcement and zones of special incentives were added. Concerning illegal housing, houses constructed after December 10, 1981, were supposed to be demolished while those constructed before that date could be legitimized with a declaration, a certificate by an engineer that they fulfilled certain standards of safety and quality, and a fine in cash payment. In Law 1337/83, attempts were made to alleviate elements, which triggered public opposition against previous Law 947/79. Thus, while Law 947 was promoting the intervention of private sector in urban development matters, Law 1337 restricted the potentially intervening organizations to those belonging to the public sector (the state, local authorities etc.) or to mixed economy companies but with the public sector holding more than 50% of their shares. Also, Law 1337 provided for contributions in land and money, but contrary to Law 947, the contributions were proportional to plot size. There were also some other innovative measures, like the socialization of the building ratios - that could secure the existence of open/green spaces- and the definition of the neighborhood as the basic element of for the creation of an urban plan.

During the same period, regional and development planning were also brought into attention. At the beginning of March 1984, Ministry of Urban, Regional Planning, the Environment, and Public Works (YPEHODE), initiated a policy, by proposing a new organization of urban space. Urban settlements were classified in "urban compounds" (or "urban entities") of two kinds: a. 54 "urbanized cities" -Greek cities with the traditional sense of the term- of a total population of 6,294,105 and b. 494 "open cities" of a total population of 3,446,312. An "open city" (as mentioned earlier) was defined as a group of villages that was proposed to form an "urban entity" in terms of population, organization and infrastructure. Thus, 10,000 rural communities were organized in the above 494 "open cities". With this policy, a transformation was attempted from the notion of "village" to the notion of "city", since every "open city" would have a sound internal transportation and communication network and the infrastructure of a real city in terms of services (social, cultural etc.). It was believed that in this way, the phenomena of over centralization of cities would cease, rural Greece could be revived, and development planning could be much more effective. At this period, there was also provision for combining EPA and L. 1337/83 with the "open cities" program. The smaller communities (villages) of the "open cities" were supposed to be "planned" at a 2nd phase of EPA, called "expansion of EPA in rural areas". This stage included two phases: during the 1st, the boundaries of rural communities would be re-established, the architectural characteristics of each one would be described and new building codes and regulations would be set, according to their architectural characteristics. At the 2nd phase, general development plans would be prepared for the "open cities" and urban planning would be done for the villages.

Finally, additional measures were taken for regional planning as a national policy, and in a scale covering each prefecture in Greece. (Prefectures were the 2nd level of local administration, they were very much similar to equivalent structures in France, there were 54 in all Greece, and they were administered by public officials, appointed by the central government, until 1994, when prefects and prefectural councils started being elected). For each prefecture, a study was conducted, named Regional Planning Proposals. This was supposed to be the initial stage of another operation like EPA, concerning regional planning, which was also supposed to be supported by a regional planning law.

During this period, one could observe a reversal of the traditional Greek approach to planning. Three frameworks for planning policy were produced –EPA, the "open cities program" and the Regional Planning Proposals for each prefecture- and only one main piece of national legislation, Law 1337/83, concerning urban planning and related to EPA. In regional planning there were policies but no legislation to back them. As a result, there were unprecedented

phenomena of dynamism covering all levels of planning but in the cases that no laws were supporting policies, the momentum did not last long. The “expansion of EPA in rural areas” never took place, since the notion of “open cities” was, in fact, rejected by the Ministry of Internal Affairs –as will be described later - which went ahead with its own programs and legislation, while Regional Studies that were initiated, were “lost” in delays and bureaucratic complexities. Even EPA did not have the expected results, since projects did not follow the expected pace of conduct, there were financial shortages, and most of all, the minister who inspired the whole operation was summarily replaced at 1986, because he rejected the pressures to legitimize illegal constructions in the Greater Athens area. From then on, EPA lost its momentum. A lot of the initially ambitious objectives were now left aside and the emphasis was on the completion of the extension plans. The “complete” urban planning law, supposed to replace Law 1337/83, delayed until 1997, while legislation concerning regional planning was introduced even later, at 1999.

6. Interventions of Ministry of Internal Affairs in regional and development planning.

The period of recent reforms towards modernization of planning is also the period of Greek participation at the European Union. This meant that a new era of gradual “Europeanization” was starting for Greece –although this transformation was taking place in a characteristic and unique “Greek way”. In attempting to organize spatial planning and increase the interrelations between local administration and planning, successive legislative frameworks were introduced by the Ministry of Internal Affairs, concerning partially regional planning and partially local administration, often overlapping or even abolishing each other.

At the period right after the planning initiatives of Ministry of Planning at the beginning of the 80s, another ministry, the Ministry of Internal Affairs, brought forward a law, L. 1416/84, which encouraged voluntary unification of municipalities, and introduced the term “development conjunction” for every group of unified municipalities. It was the first time that in law originated by the Ministry of Internal Affairs, the development dimension was surpassing the political one. In this law, European influence –mainly French- can be detected: L. 1416/84 is a transfer of the French SIVOM (conjunctions of multiple purpose). Obviously, L. 1416/84 could and should combine with the “open cities” policy of the Ministry of Planning (YPEHODE). Instead, the Ministry of Internal Affairs went ahead alone, and with a series of decrees defined “development conjunctions”, while “open cities” were not mentioned at all. Implementation of Law 1416/84 had no further hope of success, since this law was replaced by another, before even having a chance to function.

Law 1622/86, which replaced 1416/84, was a second attempt by the Ministry of Internal Affairs, for a better organization of local administration. “Development conjunctions” and “geographic entities” –their spatial bases- were considered as not existing and «enlarged municipalities» and «geographic regions», with similar interrelationships with the previous ones, replaced them. Since there was no evaluative research about the implementation of L. 1461 and furthermore, not even enough time for having it tested, it still remains unexplained why this replacement took place. It has, also, to be noted that the principle of the new law could perfectly match the policy of the “open cities”, but there were a few noticeable differences: in the new scheme, each “enlarged municipality” was supposed to have a “capital” -usually the biggest village- and one local council for the entire unit -in contrast to the form of federation that the “open cities” provided. One could say that this is indicative of the different influences and traditions of the two ministries, YPEHODE keeping the tradition and still be influenced by German planning policies (and the federal pattern of them) while Ministry of Internal Affairs was keeping a strict tradition favoring centralization and very much following the pattern of French system of administration (Newman and Thornley, 1996). There was speculation that, although “open cities” were defined after a long period of research and participation procedures with local factors, and strictly according to regional development criteria, they were ignored because the allocation of communities in each “enlarged municipality” was manipulated by the Ministry of the Internal Affairs in such a way, as to secure a majority of councils of the new type, politically affiliated to the central government. An interesting element of this law was the introduction of incentives –mainly financial- in groups of communities that would decide to join in “enlarged municipalities”. It appeared,

though, that the motivations were not sufficient, since only 2.7% (155 in 5700) of communities in 3.5% (40 in 1141) of geographic regions decided to unify.

With the same law, regional level of administration was first established in Greece in an attempt to organize higher levels of administration. This seemed to be in accordance to European directions –and very much similar to the French system- since European Union was formulating its policies for development, based in a structure of regions, which were superseding the traditional national entities. Greece was divided in 13 regions (periferia) with appointed administration, headed by the General Secretary of the Region and a Regional Council. Of course, there is a vague perspective that in the future, regions will also have elected representatives.

Eight years later, another law was introduced by the Ministry of Internal Affairs, in the sequence of efforts for modernizing local administration and increase its influence on regional planning. It was Law 2218/94, which in the 1st level of local administration, introduced the notion of “district councils” that were equivalent to the notions of “development conjunctions” and “enlarged municipalities” of the previous laws. The difference was, that they were not, any more, on a voluntary basis, but they were obligatory. With this law, there was an effort to promote intercommunity cooperation, which would gradually develop to unifications of communities. Of course, once more, there was no adequate explanation about the “old wine in new bottles” attitude of the government, with the abolishment of the forms of local administration, which were introduced by previous laws, and the introduction of new ones that did not really differ in size and location.

7. The turn of the century. “Still crazy after all these years..”

The end of the last decade of the century was met with the establishment of three major pieces of legislation: the long expected “complete and permanent” Law 2508/1997, “concerning the sustainable development of cities and communities of Greece”, Law 2539/1997, related to the important reform in local administration (Program “I. Kapodistrias”), and Law 2742/1999, “concerning regional planning, sustainable development and other issues” which was also expected since the ‘80s, to back the first policies about regional planning, by the Ministry of Planning.

Law 2508/1997 was introduced as the legal framework for urban planning that was supposed to complete the transitional Law 1337/83. Although the main directions are the same, it is obvious that there is a strong influence in its ideology and priorities from equivalent E.U. policies and laws. The objectives of this law include the principles of efficiency, democratic participation and sustainable development. According to 2508/97, Urban Planning is expressed in two levels: the first level consists of plans with a strategic character and general directions about land uses, survey of existing conditions, forecasts, alternative ways of development, organization of financial resources, protection of the environment and sustainable development, priorities and phasing of implementation etc. Categories of plans of this level are: a. “Rythmistiko”, and “Program for the protection of the Environment”, which are meant for urban areas with metropolitan characteristics, b. General Development Plan, which is the same with the equivalent of the previous law, L. 1337/83, but covers the whole area of an enlarged municipality, and c. “Plans of Organization of Space and Housing of “Open Cities””, which is similar to a general development plan but covers the area of a “district council”, as defined by Law 2118/94 (or a new, enlarged municipality, as provided by program I. Kapodistrias -see below). The second level consists of plans characterized by design of greater detail of physical characteristics, larger scales of plans, building regulations, and indicating sites of specific uses (schools, nurseries etc.). It includes revision/extension plans and implementation acts, (that are the same as in Law 1337/83), and special types of studies, such as neighborhood revitalization, regeneration of downgraded areas etc. Law 2508/97, despite its great significance, hasn’t had any implementations yet. There was a two years delay in publishing guidelines for its implementation, and more than a year delay in initiating some pilot studies to evaluate these guidelines.

In the sector of local administration of the 1st level –which is of great influence on urban and

regional planning- the Ministry of Internal Affairs proceeded in some dynamic measures that combined policy and legislation. Having accepted that the splintering of local administration was the main cause of burden for effective administration and harmonization with the European perspective, and having realized that provisions of the previous laws 1461/84, 1622/86 and 2218/94, towards unification of communities were too slow and too weak as measures, Law 2539/98 was introduced, to back a policy of the long awaited unification and enlargement of municipalities (units of local administration of the 1st level). The policy became known as “Program *Ioannis Kapodistrias*” –named after the first governor of Greece who tried to reform local administration. According to this, all existing municipalities and communities (cities and villages) were supposed to form new, enlarged municipalities. With the implementation of this law, existing municipalities and rural communities that were reaching a total of 5755, were reorganized in 900 enlarged municipalities and 133 communities -that remained as such because of particular characteristics (historic towns etc.). Contrary to the existing tradition, this law was in accordance to implementable policy, with effective measures to facilitate the function of the new formations. Personnel of necessary specializations were hired and trained, and then it undertook duties in the new demos. Financial arrangements – with the biggest part coming from European funds- were also made to help them with the implementation of development policies. Modernization of services is under way with the use of information technology, and research projects were encouraged by Universities and research centers on related subjects. Seminars, cooperation activities and information networks were also organized between the new demos and the equivalent administrative units in other E.U. countries. Generally, there was an obvious difference in the way that the implementation of this policy was supported, in comparison to the lack of policy and the inactivity that was characteristic of the previous laws originated from the Ministry of Internal Affairs.

In the sector of regional planning, regional development plans started being conducted at the beginning of 90s. The Ministry of Planning had given guidelines for these studies, but there was no legislation to support these efforts. As a result, many of them were considered as not fulfilling the appropriate quality standards and currently, they are in the process of being reviewed and modified. Law 2742/99 came later, at the end of the decade, and it is the first complete piece of legislation in Greek planning history. It emphasizes the environmental dimension of regional planning and includes sustainability in its goals. It provides for “frameworks of regional planning and sustainable development” of various levels, starting from the national level (General Framework) and going down to regional levels (Regional Frameworks). There are also frameworks for specific issues as development of areas of specific characteristics, spatial organization of some sectors of production of national significance etc. Finally, there is provision for organizational and administrative procedures in managing interesting and protected areas. Law 2742 is still only on paper. Guidelines for its implementation haven’t been published yet, and there is no prediction of when this is going to happen.

By reviewing this period of planning history in Greece –that is also the last of the century- one can notice that despite the positive European influence, there was no significant progress in developing an effective system of planning policies and laws, which would complement each other. It is justified to say that Ministry of Internal Affairs improved its approach by formulating policy by the program “I. Kapodistrias”, supported it by various mechanisms, attracted public participation around its implementation, and introduced a new law to secure its implementation. At the same time, there was inconsistency in coordinating policies and laws from the part of Ministry of Planning that culminated in the production of two important pieces of planning legislation, and –on the other hand- in the subsequent stagnation in planning implementations. This becomes even more striking when compared with the dynamism, haste and action of the first period of EPA in early 80s. One could reasonably conclude that, in case of lack of stable and consistent policies from the part of the administration, situations are influenced by the individual characteristics of the various administrators. Finally, there is confusion stemming out of differences in the treatment of the same subjects by different authorities. This type of confusion has been noticed again in the past, and it is indicative of the lack of coordination between, i.e., the various Greek ministries. The Ministry of Planning produced Law 2508/97, at a time when Law 2118/94 (originated from the Ministry of Internal Affairs) was still operational. Consequently, plans of organization of space and housing of

"open cities", were in fact general development plans, meant for district councils. (The insistence of YPEHODE to use the form of "open cities", despite the fact that it was never incorporated in the organization of local administration, is also striking). Of course, since no cooperation existed between the two ministries, Ministry of Internal Affairs introduced "Program I. Kapodistrias" (see par. 3.1.) a few months later, according to which, enlarged municipalities replaced district councils. In this way, "plans of organization of space and housing of "open cities"" became meaningless, since there was overlapping with the context of general development plans for enlarged municipalities.

8. Judicial intervention in planning. Like if all the rest was not enough!

Besides the above, there were unique examples of judicial authorities challenging the legislative authority of government in the sector of planning and impose their own views. During the last decade there were examples, increasing in numbers, where the Supreme Court was dramatically affecting planning, not only by rejecting laws as unconstitutional and illegal, but also by setting guidelines for legislation, according to their own perceptions about the protection of natural and urban environment. These interventions were indirectly portrayed as resistance against corruption that had infiltrated large sectors of Greek society. There was speculation that this attitude was influenced by the "revolution of judges" in Italy, which coincided in time –although this could have been only a coincidence. Some cases of the kind are described below.

The right to "transfer building ratio" was initially established by Law 880/1979, aiming to protect traditional buildings, sites with archaeological value and "interesting urban elements", by giving the right to the owners to transfer the building ratio of the protected piece of land, to another piece of land. This law was implemented for 14 years and stopped at 1993, after the intervention of the Supreme Court who ruled that the implementation of the law became in fact, part of the construction process and produced higher building densities. The Ministry of Planning attempted to modify the law and reintroduce it, at 1995, by setting stricter criteria of the potential sites in which transfer of building ratio could take place. The new law, though, was also invalidated by the Supreme Court (decision 6070/96). A third version of the law is currently prepared.

Another case that provoked turmoil in the planning processes and in fact, acted against decentralization is the one, concerning the approval of Urban Plans. In one of its rulings, at 1999, the Supreme Court ruled that some planning responsibilities that Law 2508/1997 granted to prefectural and municipal administration were against the Constitution. This was based on article 24, par.2 of the Constitution where it is stated that responsibility for Urban and Regional Planning for the whole of the national territory of Greece belongs to the State, in order to achieve rational development of cities and villages and best possible quality of life for citizens. When prefectural officials were appointed, prefectures were considered as regional branches of the state and there was no problem in them approving urban plans. Since 1994, when there were direct elections for prefectural representatives, prefectures –according to Supreme Court- ceased to be part of the state and became independent legal and administrative entities. As such, they do not have the right to undertake the responsibility of approving plans. (Needless to say that the same also stands for municipalities, although, under certain circumstances, they had been approving urban plans since 1983). Thus, after this decision, prefectures (54 in number) stopped approving urban and regional plans and all related matters were transferred to the departments of regional authorities (14 in number), creating, thus, severe delays and complications. Of course, one will wonder what is going to happen in terms of delays, when the 3rd level of local administration becomes also elected, and most planning responsibilities will go back to the ministry, as it was twenty years ago. Given the circumstances, it seems that the only way out of this deadlock, is a revision of the related article of the Constitution.

There were many more Supreme Court Decisions which also cancelled existing planning legislation, in many issues: concerning the eligibility for construction of specific pieces of land, the positioning of buildings in the building squares, modifications of building regulations, canceling of building permits by the Supreme Court if it considered that they negatively affect

the transportation conditions, conditions of connecting new constructions with infrastructure networks, conditions under which illegal constructions should be demolished, and even the way that approved urban plans should be published in the Official Newspaper of the Government. In fact, the latter created a major problem at 1993, when approval of numerous urban plans all over Greece was invalidated, because the Supreme Court ruled that the actual plans in the form of maps should be published in the Official Newspaper together with the decision for approval, contrary to the up to then guidelines of the Ministry of Planning that necessitated only the publication of the decisions for approval.

All the above, created severe tensions between the Government and the Supreme Court (Rovlias, 1999). The government reacted to judicial interventions by approving a law (L. 2145/1993, art. 12) that would reduce the responsibilities of the Supreme Court on urban and regional planning issues, but this law was also ruled unconstitutional by the Supreme Court itself (SCD 1781/1993, 2152/1993, 2153/1993). According to Rovlias (1999), the “planning interventions” of the Supreme Court were undoubtedly triggered by the deteriorating conditions of the urban and natural environment in Greece. Nevertheless, one should not ignore the fact that many such interventions often jeopardize official laws and policies in serious issues, for which, lots of experts worked upon. This creates an instability in planning legislation, burdens in implementing policies and a feeling of insecurity to all those related to various levels of planning, from planners, engineers and architects, to simple people wishing to build their houses. Proposals for resolving the issue could include (Rovlias, 1999) the provision of a consultant to the Supreme Court on planning issues, and the establishment of a “Constitutional Court” with unique responsibility to decide about the constitutional accordance of laws.

9. The European context and the tradition of foreign influence in Greece.

It has been mentioned that during the last decades, there is activity in planning legislation and planning policies in Greece, despite the recorded incompatibilities. A great part of it is due to the effort to harmonize structures with the rest of the European Union. It is interesting, thus, to briefly examine the equivalent structures in other E.U. members, to analyze the influence on Greece and to see if there is a common European perspective that might help Greece improve the situation towards the accordance of planning laws and policies.

Thornley (1996), although recognizes a great variety among the structures, the distribution of responsibilities, systems of local administration etc., in E.U. countries, he, nevertheless, identifies certain groupings of countries as it concerns their legal characteristics and their administrative ones (fig. 1). At the focus of his analysis there is the balance between central and local government, since this has a significant effect on the autonomy and strength of urban planning.

The British family exhibits a considerable distinctiveness compared to the rest of Europe. It has as characteristics that “the British legal style ...has evolved from the tradition of English Common Law; A system of case law that has gradually built up decision by decision. The mode of legal thinking is to consider the relationships between parties and their rights and duties. There is an empirical slant to this approach and an emphasis on past experience and precedent.” (pp. 30). In this family, and particularly in the U.K., there is no special protection in law to local government, and local authorities are seen as agents carrying out central government policies. Central government produces regulations, laws, and controls, and has also great control of finances. The British approach embodies an element of conflict in the relationship between local authority and the individual / applicant, in which the two sides are competing to win. However, there are often negotiations, particularly in larger schemes, where the concept of “planning gain” appears. (Riziotis, 2001).

The Napoleonic family, originating in France, adopts a legal style that “has a tendency to use abstract legal norms... The aim is to think about matters in advance and prepare a complete system of rules based on the codification of the abstract principles.” (Thornley, 1996:32). Local administration is mainly based on the local commune and thus, local authorities at the lowest level tend to be numerous. The degree of centralization has traditionally been high,

and local authorities used to be branches of the central government, although the latter has been changing the last few decades, in many members of this family. In Napoleonic family, there is a tendency to prepare a national code of planning regulations and to create a hierarchy of plans, starting from higher levels, where there is mostly expression of development policy and going down, in more detailed plans of smaller scale and a zoning approach in land uses. The Napoleonic family is large and there are variations in planning systems of the countries – members. France and Holland present a more systematic approach where planning procedures and characteristics and tasks of participants are clearly described, Belgium and Spain have embodied a federal element in their planning systems, because of pressures for regionalism, whereas in Italy and Greece, there are often phenomena of fragmentation and extreme complexity in structures and procedures.

The Germanic family in its legal substance, can be considered as a distinctive branch of the Napoleonic family, (Thornley, 1996) in adopting a legal style elaborated, often abstract in concepts but particularly sophisticated, although clear in issues like the division of powers and responsibilities between different levels of government. Another characteristic of the Germanic family is the federal approach taken in the Constitution and an often complex system of allocations of responsibilities and powers between different levels of administration, which is less centralized than in the previous families. “The strong constitution and the federal system result in a strong regional level of planning with its own laws and plans and a set of arrangements for creating consensus between and within levels of hierarchy. This results in considerable variation in the planning process between regions but within a strong national framework.”. (Thornley, 1996:72).

Finally, the Scandinavian family exhibits a legal style, which avoided the “scientification” of the Germanic family, being more pragmatic and clear in written form. It is characteristic that a complete legal code has never been formulated (Thornley, 1996:35). It is probably the most decentralized system in Europe, with a strong municipal level, a weaker regional and a national level reduced to a minimum as it concerns responsibilities and involvement in planning. Members of this family exhibit a high degree of similarity in their planning systems.

Greece seems to have a dual identity, as it concerns the above families. It is clearly a member of the Napoleonic family, as it concerns its administrative system, but as it concerns legal style, it has elements of both, the Napoleonic and the Germanic families. In fact, right after Greece became an independent country, major European powers –England, France, and Russia- were competing over control and influence in the new state. Characteristic of the above is that the first political parties were named Anglophiles, Francophiles and Russophiles. Later on, with the arrival of the first king, Otto, in Greece, Bavarians also captured a high degree of influence. At that time, there was much debate about a legal code to be adopted. (Thornley, 1996:34). French influence had been great, due to the spirit of the revolution of 1789, who also inspired Greek revolution against Ottoman Empire. There were also some forms of cooperation and financial relations between France and Greek patriots. There was, though, a strong support from part of the population to base the law on that of Roman Byzantium. The latter view was finally adopted and this led to affinity to the German system as being closer to that of Roman Byzantium. German lawyers contributed in formulating the Greek Civic Code in 1846 and since then, the equivalent German has often influenced part of Greek legislation. This was not the case, though, with the system of public and local administration, where the adoption of the French system was obvious since 1830, and it remained so until now (even the through-the-time modifications in the French system were adopted in Greece, but with a relative delay of 5 -15 years).

As a result of the above, in now days, one can observe that there are still different origins and differences in the legal style of various laws, and this depends a lot on the sector of administration which introduces them. Thus, laws concerning local administration and related regional and development planning, have mostly a French influence, while laws concerning urban planning and regional planning in a scale different than that of local administration units, can have either French or German influence. Of course, these are general comments and should not be taken literally. Furthermore, since there is a tradition in Greece, not to plan in advance, but try to solve present urgent problems, there was always a tendency to adopt laws already existing elsewhere, without serious attempts to modify and adapt them in the

Greek reality. Spasmodic reactions to deterioration of urban and natural environment, often “transplanted” laws, and lack of consistent planning policies, has resulted in excess in number and types of plans and scarcity in planning effectiveness and substance (Economou, 2000). It is characteristic that in number of levels of urban plans, most European countries have one or two, with one being often on a voluntary basis, or partially urban and partially regional. Greece is the only country with three levels of urban planning (whenever *rithmistiko* is included). At the same time, it has the second lowest percentage of planned area in Europe (after Finland).

10. Conclusions, Perspectives.

Important Points:

There have been many planning laws, since the establishment of the Greek state, but these were seldom combined by policies. There were also very few examples of policies that were initiated without equivalent legislation, namely concerning regional planning. In both cases, there was no long lasting or viable planning process or outcomes. It seems that effectiveness and long-term outcomes are depended on a fine balance and complementarity between policies and laws.

Planning was mostly attempted by legislation and not by policies. This was the result of two things: 1. local administration had few rights and responsibilities and even fewer resources. This disadvantageous position of local administration led to inability to formulate policies on the local level, which is the most suitable environment for such. 2. Central government was not in favor of wider participation processes in planning that has been always a prerequisite for effective policies. To the contrary, they preferred laws that were not negotiable, did not necessitate participation and were enforced by authority.

A very critical period in Greek planning history was the mid 30s, when, after a more or less successful program to resettle the refugees from Asia Minor, and an effective combination of law and policy, there was a period of political instability that granted authoritative characteristics to the Greek State. These characteristics were kept like that until mid 70s, when the military government collapsed. During this period, planning –and mostly urban- was avoided, as having sociopolitical characteristics and necessitating participation of many involved agents. Furthermore, it was replaced by Public Works and “great constructions”. After mid 70s, reactions towards planning resembled spasmodic movements in panic, to stop being underdeveloped in a united Europe.

The majority of planning laws remained inactive. There were various reasons for it, the most often met, being that the overprotection of private rights and property, in combination with the patron – client relationship of the political parties, were always invincible obstacles for any implementation. Furthermore, there was no continuation in planning strategy. It was changing, not only with changes in the political parties but also with every change of a Minister. So, laws remained inactive until the next Minister replaced them.

Very often, new laws were contradictory to older ones –or policies- either because they were initiated by different centers of authority (Ministries), or by different political parties, or even by different Ministers of the same Ministry. It seems that in a centralized state, like Greece, vacuums of power have minimal communication. This is again indicative of both, the lack of common policies, necessitating cooperation and the unwillingness of each center to share power through common initiatives.

Initiatives that in general could be treated as policies, in Greece were introduced as laws, since it was easier, less demanding, and more suitable to an authoritative character of the State.

In comparison to legislative frameworks of other European countries, Greek planning legislation is excessively complex. Trying to foresee all possible problems that might arise in

the future, it deprives planning from its necessary dynamism, continuity and flexibility. This is indicative of the mutual suspicion between government and agents related to planning (local authorities, organizations, the public etc.).

There is confusion, caused by overlapping responsibilities among the various administrative levels. Interventions and arrangements acting on a municipal level, are supposed to conform in spatial policies of different ministries and organizations, often contradicting each other (Athanasopoulou, 1998). It is indicative that there are nine central organizations and ministries involved in spatial planning, with related and partly overlapping subjects.

Greece belongs to different “families” of European nations, as it concerns legislative and administrative structures. Thus, often laws and policies originated from different “families” of nations and with different philosophy. Furthermore, most often planning policies and planning laws, were institutional “transplants” from other European countries, often inadequately assimilated in Greek reality.

Other European countries have always influenced Greece in its administrative system, planning legislation and planning policies. The difference between the past and the present, is that while in the past, bigger or economically and/or militarily stronger countries were competing to exercise their influence in smaller ones, lately, there are continuous efforts for building a common European identity. Could this common process include a harmonized planning system? And could Greece adopt it in such a way, as to overcome the evils of the past? Studies have shown (Davies, 1994) that differences in planning systems in Europe are major and since they are based upon legal and administrative approaches and history, it is unlikely that in the near future they will vanish. Social and economic processes in each country vary (Thornley, 1996) and so does balance of power between the levels of government, involved in planning. Therefore, the likelihood of any E.U. intervention in urban and regional planning is unlikely. However, many of E.U.'s other actions have direct or indirect effects on planning within the member states. One could mention the environmental and regional programs, the production of documents like “The green paper on the urban environment”, pilot projects on environmental planning, urban monopoly and urban public spaces, the development of trans-European transportation networks which help to bridge the gap between nations, increasing access to information across Europe, the allocation of funds to specific measures targeted on urban environment (URBAN initiatives), programmes for transnational cooperation, like the INTERREG programme. In the report Europe 2000 there is elaboration towards intervention in regional and urban policy, through classification of European cities and formulation of common initiatives. So, “the future is unlikely to produce a harmonized system throughout Europe but, rather, greater mutual learning resulting perhaps in a convergence of planning policies with different legal and institutional settings.” (Davies, 1994).

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