“Compulsory Land Expropriation in Greece: A Case Study for Road Networks”

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Protection of private ownership in Greece

- Since the establishment of the new Hellenic state Greek Constitution have protected private “ownership” by adopting the French Declaration of 1789, but without characterizing the private ownership as an “inviolable sacred right”.

- Constitution of 1975, Article 17: “private ownership on land and real estate is protected by the state...however, ...the private ownership rights cannot be exercised against the public interest”

- Emphasizes the “social content” of the private ownership but it does not directly change the private ownership right into a social right (the private ownership rights were expected to be gradually transformed into a social function)

- 15-18 million land parcels and 37.2 million ownership and other legal rights
Constitutional constraints on private ownership

- Not only “ownership” is seriously restricted by the Constitution, but also the legislator can (and has in fact) restrict it even further.

- Constitution of 1975, Article 24: introduces the need for environmental (cultural or natural) protection, which consists both a public right and every individual citizen’s right.

- Constitution of 1975, Article 106: adopts the “nationalization” institution. Obligatory involvement of the state (>50%) in private enterprises (monopoly of services and goods)

Until the first decades of 20th century property rights were fully protected, in a similar manner with the philosophy of the European Court of Human Rights. The situation was reversed during the rest of the 20th century until today

- The Constitution does not establish a hierarchy of its articles, though. All articles are of equal weight and the application of one should not abolish the power of the other
Greece entered the European Union in 1981

For 30 years there is much confusion on land & property issues:

- Among the supreme Greek courts of Areos Pagos (for civil and criminal law) and the Greek Council of the State (GCS); and

- A continuous contradiction especially between articles 17 and 24, in the interpretation of these articles by the Greek Council of the State

- Land owners apply to the European Court of Human Rights (ECHR)

By Law 2000/1991 the institution of “denationalization” is introduced
(so far: Olympic Airlines were denationalized in 2009)
1993: nationalization of urban bus transportation company (Athens-Piraeus)
“Public purposes” that allow Land Expropriation in Greece

Restrictions or land taking through zoning regulations

- **Expropriation procedure is scarcely applied** for the protection of the environment (natural or cultural): as long as some primitive uses are still preserved (e.g., pasture, recreation activity, etc) the restriction of other legal uses has no legal consequence. If compensation is given, the market value of land in the non-planned areas is totally ignored.

Land taking for enforcing a city plan

- principle of created “profit” “self-compensation” (owners must undertake the costs for the land taking for a zone up to 30 meters width from their property boundary); since 1982 urban land consolidation - “in natura” compensation-land readjustment.
"Public purposes" that allow Land Expropriation in Greece

Land taking for the construction of public works

1. **"Self-compensation"** for national roads of up to 50 meters width; compensation did not take into consideration the damage the road would do to the remaining parts of the properties. By law 2971/2001 the **"principle of profit"** or the principle of **"self compensation"** is considered to be **refutable** and the possibility of created "profit" must be decided by the court.

2. Historic **turning point in the Greek Case law**: (decisions of 2004 and 2005 of the European Court of Human Rights) takes into consideration the **"property damage"**
Ad hoc legal arrangements were needed for the Olympic Infrastructure

Due to their temporary character OG could not justify a permanent expropriation of private ownership as such.

Special laws for land expropriation has upgraded such land acquisition to a “national opportunity to satisfy long-term needs of public interest, such as the spatial and urban reform of the greater area of Athens, the protection of natural and cultural environment, and the creation of athletic, social, and tourist infrastructure”.
Greek Legislation for Land Expropriation

Procedures: normal, extreme-urgent

- Announcement-study, environmental study -optional
direct purchase??, exchange of land ??
- Cadastral survey (or plain field survey, notification to
  the registrar)
- Ratification of cadastral survey-Joint MD-Declaration of
  expropriation-publication in GG-corrections of
cadastral survey by owners’ request
- Valuation committee (and SOE), proposal-
  Determination of preliminary compensation (General
  Court) (or by tax office) –deposit at the Loan and
  Consignment Fund
- Completion of land taking- ratification (removal, recall)
- Adjudication of owners (General Court decision),
  Owners appeal for full compensation (Court of Appeals)
Case study: 4 major Motorway projects

1. Attiki Odos, length 65 km
   Construction period 1995-2004
   Construction cost €1.3 billion
   Land expropriation cost €813 M
   62% of the construction cost

Non-planned area

Within the city plan
Case study: 4 major Motorway projects (II)

Egnatia Odos, part of the Trans-European Road Network - one of the most modern and high standard road axes in Greece. It is extended a 670 km length and passes near 332 towns and villages, 30 cultural sites and 6 airports (Historic route)

Sample: area of 14.99 km²

Built between 146 and 120 BC
Case study: 4 major Motorway projects (III)

Ionia Odos: (under construction) Part of the European route E55

Total length will be 384 km

Completed at around 2012 passing through seven towns

Sample: 1,180 km²
Case study: 4 major Motorway projects  

Olympia Odos (under construction):
Total distance of 365 km
It will link Athens to Patra, the third largest city in Greece, and along the western coast of the Peloponnesian peninsula, to Pyrgos and Tsakona

Total construction cost: ~ €1.8 billion excluding VAT

Combination of: bank loans (€204 million), toll revenues (€936 million), shareholders’ private investment (€200 million) and the Greek State (€550 million). Half of the Greek state subsidy is coming directly from European funds.

Expropriation costs for this project are estimated to be €300 million ~16.5% of the construction cost
Findings

Total expropriation costs and duration are not comparable as the expropriated land size, the number of owners, type and number of existing developments, land values, specific reasons for delays (e.g., court postpones, local court workload) vary significantly.

Judicial procedure: compensation (& adjudication of owners)

In Attiki Odos (within the city plan):
1. Properties
2. Objections (values)
3. Changes of the study
Findings: Preliminary compensation (~4 years)

Duration of various phases of the compensation process for Olympia Odos

Phase 1: ratification of cadastral survey
Phase 2: publication of land expropriation
Phase 3: estimation of compensation by valuation committee
Phase 4: court decision for the preliminary compensation

Average duration is written in number

4 more months for courts to publish their decisions

Cadastral surveys: Commissioned in 2005 and delivered to the Ministry in 2007
The use of orthophotos shortens compilation times.
General Findings in all projects

1. Owners have never offered or agreed to sell their properties in advance as they do not trust the state’s valuation methods

instead

The state has enacted an old law (of 1946) for requisition of the property in order to speed up the land takings (40% of the land takings of Olympia Odos is done by this method).

2. Properties are usually under-compensated by the General Courts (SOE: market value, committee: self compensation/tax value)

All owners are led to appeal at the Courts of Appeals to define a better final compensation including the created damage (which may though be even lower as it was the case in Ionia Odos and the part of Attiki Odos in the unplanned area)

There is a great variety of decisions of the Courts of Appeals even for similar and neighbouring properties (under-compensated or over-compensated without much documentation in the Courts)
There is an unusual property insecurity in Greece

3. Greek citizens and lawyers are injured due to a difficult and unfair process defined by the numerous laws, regulations and the conflicting case law that characterize compulsory land expropriation in Greece.

4. Causes of such insecurity may be classified as following:
   Lack of systematic **scientific education** in compulsory land expropriation law, which is an absolute inconsistency with its practical application; lack of awareness among lawyers
   Failure of the Greek land expropriation law to be reorganized (in terms of consistency, simplicity and efficiency) and harmonized with EU
   Frequent legislative amendments of existing laws, for **ad hoc solutions** (specific legislation to achieve the inflexible time-schedules of certain works)
   Frequent changes in the Greek case law without analytical documentation or persuasive reasoning. This fact proves the lack of **general principles for land expropriation**.
## Proposals

5. Privileges of the Greek state (and other legal entities that are of similar status) are now of no practical value. Current Law and the Law for extreme-urgent expropriation law are inconsistent with relevant legislation within EU. **Need for radical legal reform.**

6. **Modern valuation methods and standards should be legally strengthened and enforced.**

7. **Cadastral surveys should use orthophoto maps and include boundaries of affected properties.**

8. Until the operation of the local cadastral offices (to avoid confusion and overlapping) all cadastral surveys should be plotted in the same reference system and should be maintained in a GIS environment locally.

9. **Difficulties in fund raising: an update of the land consolidation law is needed.**

10. **Attention to improve education especially in the field of European harmonization and increase the citizens' awareness and owners' participation in the procedures.**
THANK YOU