

## **Dimitris Melissas**

### **Recent Developments in Planning Legislation in Greece**

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Ladies and Gentlemen

Good afternoon

My speech includes two separate parts:

The first part begins with a brief historical overview of spatial and urban planning in Greece and then presents the very recent Law 4269/2014 on land use, spatial and urban planning.

The second part of my intervention refers to the new building regulation.

I. In relation to the First Part:

1. Spatial and urban planning during the modern Greek political history can be distinguished into three basic periods:

- since the establishment of the Greek State (1830) until 1923;
- from 1923 up to the regime change after the fall of the Greek military junta;
- from 1974 until today.

a. The limits of the spatial and urban planning during the first period are difficult to identify and vague. First of all, there is no legal framework regarding the drawing up, approval and implementation of the spatial plans that were drawn up at that time.

Urban and spatial planning coincide during the 19th century and aim to ensure the minimum living and housing needs of citizens. State policy is limited to an effort to deal with problems that occur during the reconstruction of buildings, namely through the release of legislative acts concerning safety, hygiene, aesthetics of buildings and cities. Therefore, spatial planning is lacking legislative intervention.

In practice, the reconstruction of cities is uncontrolled, especially in the city of Athens, where – according to theory – the Service of Public Works, had to operate under the pressure of micro-politics for several decades.

Gradually, since 1880, the increase of urbanization and the formation – in an embryonic still stage – of industrial production, the social pressure towards a decrease of the challenges of complex urban properties and of the problems that derived from expropriation, and, in particular, the need for a clear delineation between public and private property, were the operative events for an organised State intervention through the adoption of legal acts for spatial management

Since 1880, some of the operative effects that gradually led to an organised State intervention and the adoption of legal acts for spatial management, were:

- the increase of urbanization,
- the formation – in an embryonic still stage- of industrial production,
- the social pressure to reduce proprietary challenges for complex urban properties and the problems that derived from expropriation, and, in particular,
- the need for a clear delineation between public and private property.

At the end of the first decade of the 20th century, the establishment of urban infrastructure (such as transports, sewer and drainage, schools) is pursued through specific urban plans. Public administration is modernized and the know-how on the functional spatial organisation is reformed. Legislative decree 17.7/16.8.1923 which separated the Greek territory into areas that are included or not to the approved city plan (within and out of plan areas), the General Building Regulation (Presidential Decree 3-4-1929), Law 3471/1929 on horizontal property and, mainly, the plans for the major, most populated cities that were drafted after 1923, compose the first relatively comprehensive legal framework for urban planning and constitute an embryonic stage of spatial development in the Greek State.

However urban planning in Greece until the 1980s, was determined by the legislative decree of 1923, which comprised only one level of urban planning study. Its provisions set the rules of urban planning of the country's settlements. In brief, under legislative decree of 1923, first the actual situation was imprinted by drafting a topographic map and by processing collectively all elements of the area under consideration. Subsequently, the town plan was drafted, on which the areas suitable for construction and public common areas were illustrated. Moreover, the town plan set the requirements and conditions for the urban planning layout of the area. The implementation of the city plan was assigned to local government.

Later on, Law 1337/1983, as well as Law 2508/1997 laid down two levels of urban planning:

- a) the General Development Plan and
- b) the development study.

Law 1337/1983 sought to address the issues of extensions or accessions of settlements and towns. It also provides for public participation procedures for the residents during the throughout the levels of planning.

2. During the period 2005-2010, only nine laws falling under the competence of the Ministry of Environment, Urban Planning and Public Works – YPEHODE (later Ministry of Environment, Energy and Climate Change – YPEKA) were adopted.

Since May 2010, when Greece typically entered the Memorandum era, the laws adopted under the competence of YPEKA are at least thirty-one (31). In other words, a 244% increase is observed and more than 150 legal acts (Ministerial Decisions, Presidential Decrees, Laws, Acts of Legislative Content) that were adopted during the last five years have a content that falls within the scope of spatial planning, of illegal building, of land use, building legislation etc.

3. On July 2014, Law 4269/2014 was issued, entitled ‘Spatial and urban reform - sustainable development’. This Law includes two Chapters. The First Chapter comprises thirteen articles and refers to spatial and urban planning, while the Second Chapter with nineteen articles concerns the categories and classification of land use.

The adoption procedure for this law, meaning the drafting procedure, as well as the procedure of debate and voting in Parliament, consist a digression from the normal law-making process and an exceptional procedure.

For the following reasons:

A) First of all, despite the fact that the discussion on the problems of spatial and urban planning was on-going for a long time and – very often it was ascertained in theory and in practice – that the procedures of drafting and adopting spatial and urban plans were particularly delayed in a way that the estimates of the engineers became outdated and the projections were annulled to a large extent, at the end, the first part of Law 4269/2014 which refers to the procedure of drafting and adopting spatial and urban plans, was made publically available only when the draft law was submitted to Parliament.

Additionally, the second part of Law 4269/2014 that lists the classification and content of land use was submitted as a draft to consultation between 20.12.2011 and 29.02.2012 and was conceptually different in many points from the draft law that finally was discussed in Parliament, which the opposition considered as a whole new text.

The draft of Law 4269/2014 was brought to Parliament for discussion and voting under the, so called, ‘urgent’ procedure. This means that parliamentary debate and voting takes place in a single hearing that lasts maximum ten hours, with a restricted number of speakers that are entitled to half the speaking time than during the normal legislative procedure.

Γ) Law 4269/2014 contains specific provisions, oriented at:

- First, the integration of new technologies in the process of drafting, approving, monitoring and integrated recording of all the country's institutional lines.
- Second, Law 4269/2014 could be seen as the basis for the codification of spatial and urban planning legislation, for the first time after 1999.
- Third, it aims to reduce the time required to complete the plans.
- Fourth, it is oriented towards the avoidance of conflicts and overlaps amongst the levels of planning, which were observed during the previously legislated period.
- Fifth, it lays down a precise distinction of each level of planning; one strategic and one regulatory level.
- Sixth, Law 4269/2014 specifies the clear-cut attribution of competences amongst the involved authorities and services in accordance with the new administrative division of the country intending to provide a legal shield to administrative acts.
- Seventh, it aims to establish legal certainty as a foundation for the sound economic development of the country.

- Eight, Law 4269/2014 focuses on the allocation of common rules and standards.
- Last, it provides for the completion, by 2020, of a digital map of the country, where all the institutional lines of national law will be reflected and for the creation of digital plans per municipality which will contain all the information necessary for the issuance of administrative acts.

In particular, it is foreseen that for the organisation of the national territory, the Government shall prepare a document with the principles which will be reflected on the national strategy.

Furthermore, the National Spatial Frameworks and Regional Spatial Frameworks which are sets of documents and/or diagrams, provide the directions of strategic planning on national and regional level respectively.

Moreover, the Local Spatial Plans determine the organisation of land use and the general terms and restrictions for building, as well as any other measure, condition or restriction required for an integrated spatial development and organisation of the region of a first instance regional administration (municipality).

The specific spatial plans are form spatial planning regulatory, part of the same hierarchical level design with Local Spatial Plans. The street plans are specialization, technical and detailed implementation of the overlying space planning levels.

The Special Spatial Plans constitute a form of spatial planning of a regulatory character, which is hierarchically set in the same level of design as the Local Spatial Plans.

The street layout plans represent the specialisation, the technical and detailed implementation of the overlying spatial planning levels.

Furthermore, the recent legislative framework for land use aims:

- a) to redesign the land use categories in order for them to meet the current conditions,
- b) to redefine the allowed uses in each category, in order for them to be able to achieve their urban planning objective
- c) to solve chronic problems and pathogens encountered during the implementation of the pre-existing legislative framework,
- d) to achieve transparency for the citizen, to ease the administrative procedures and to reduce judicial appeals through the unique assignment of each use to the Code Numbers of Activities (the so called 'KAD'), which result from the provisions governing the authorization procedures. In other words, the new land use legislative framework intends to harmonise converge land use with KADs, as these are listed in the National Classification of Economic Activities each time in force.

Some thoughts on the arrangements for urban-spatial planning and land use.

A) The fact that a political figure – the General Secretary of the Ministry – is appointed head of the National Planning Council and the Executive Committee, instead of a prestigious, recognized scientist which was the case under the previous

legislative framework (Article 4 of n.2742 / 1999) torpedoes the objectivity which the National Planning Council seeks to ensure as a body of social dialogue and consultation with a general consultative competence in matters relating to national and regional planning policy.

B) The Special Spatial Plans (for example Business Parks, Commercial centers, Areas of Integrated Touristic Development) are established to address critical land use challenges and to act as receptors of plans, projects or programmes of a supralocal scale or of strategic importance. These special plans are not spatially limited. In the areas in question, an activity or a group of activities with common conceptual features is about to be developed. The design of the Special Spatial Plans is in fact superior – to the extent that it is the context in which the Local Spatial Plans and the Urban Control Zones are harmonized; it excels because it is drafted not on the basis of the spatial priorities of an administrative region, but on the basis of each activity or community of activities. Furthermore, this superiority is also founded on the fact that modifications of the Special Spatial Plans by the Local Spatial Plans can only be tolerated exceptionally and under two necessary conditions:

- a) a specific justification and
- b) an agreement of the developer or of the administration of the area subject to the Special Plan

C) The categories of land use provided by Law 4269/2014 are eighteen (18); that is exactly twice those foreseen under the previous legislative framework (PD 23.2 / 6.3.1987).

Out of these eighteen, the eight directly or indirectly refer to the development of investments and the location of productive activities and one of them to tourism. This gives the impression that the sole purpose of changing the legal regime of land use was to minimize restrictions in the exercise of business in the urban fabric. This perception signifies that the Greek cities are not marketable, and therefore cannot attract investments in real estate, because they have been dominated by contractor buildings and illegal building to such extent that they look identical. Neither the special geographic physiognomy, nor the cultural heritage of Greek cities can be promoted and finally there is no room for improvement or embellishment of the urban fabric.

D) Moreover, each land use category is specified in excessive detail as regards the allowed use. For example in the category ‘residential building’ (K1) where, under conditions, corner plots cannot be a domestic building, or in the category ‘residential building of a neighbourhood level’ (K2) the permissible commercial stores are listed restrictively. This excessive specialisation is binding for the engineer carrying out the study and ultimately for the actual localisation of new activities generated by social evolution itself.

E) Although the Local Spatial Plan extends within the administrative boundaries of a first instance regional administration, the classification and content of land use refers exclusively to urban space. However, Law 4269/2014 overlooks the fact that within non-urban (rural) space there could be land use subject to more pressure. As a consequence, maintaining a non-built and agricultural character is under jeopardy. In

our days, because of the unprecedented economic crisis initiatives to utilise cropland is frequent and more urgent.

However it should be noted that the regulation of land use in non-urban (rural) areas is 25% in the US and approaches 100% in the U.K., while in our country it only reaches approximately 3%. This abstention of the State from regulating land use in non-urban (rural) areas has as a direct consequence that a rule is formulated, establishing that the rule of free land use applies. This means that any use can be developed anywhere, provided that it is not subject to a special regulatory regime. The rule of free land use is almost absolute in areas lacking an approved City Plan, unless these areas are subject to a special protection scheme under environmental legislation (eg wetlands), forestry legislation (eg forest or woodland) archaeological or any other legislation (coast, beach) or if they have been subject to regulatory interventions by the legislator for reasons related to the individual uniqueness of the region (eg Zoning Plans of Athens and Thessaloniki). Thus, often the administration, in order to classify an activity in the non-urban (rural) area sometimes invokes the Building Code, and sometimes other pieces of legislation referring to the protection of health or to the licensing of industrial or manufacturing installations. However, it should be noted that recourse to the health legislation or, more specifically, to the provisions on special permits, by different stakeholders of the Ministry of Development, also for activities taking place in non-urban (rural) legislation, does not serve urban planning legislation and consequently land use is left without protection. This is because the provisions of urban planning legislation aim to regulate issues related solely and exclusively to their subject, such as the control of the operation of industrial or manufacturing installations, the simplification of the licensing procedures and the acceleration of the country's industrial growth.

F) Article 32 and Article 33 Par.8 of Law. 4269/2014 provide for a new land use category entitled 'Main Road Network', where the primary and secondary roadways established in the Zoning Plans of Athens and Thessaloniki, as well as the highways and primary roads of approved General Development Plan of the rest of the cities. This linear development of intensive land use (Residential, Embassies, social welfare, education excluding third level, sports excluding major sports facilities, culture, religion, offices, shops, bakeries, catering, etc.) and, moreover, without the quantitative limitations on size which are provided for in the other categories, such as limitations concerning the square meters or in regard to the density of the installation or a minimum land use limit per building, constitutes a main choice of the legislator for the urbanization of the basic urban planning axes of the large municipalities of the country. In reality, the urban design of these cities is affected, to the extent that these extensive land uses are sited along the Main Road Network, through horizontal procedures, outside their urban planning. This transfer of land use of central intensive function to the road axes takes away functions which are necessary to the centers of cities, burdens circulation and increases the risk of accidents mainly for pedestrians.

G) Finally, this law has also confirmed by the adoption of an unrelated provision of Article 34 which provides for the amendment of Article 12 of Law. 4250/2014 "Administrative simplifications, Mergers of Legal Persons and Services of the Public Sector." As it is known, the perpetuation of the interference of irrelevant provisions – has continued in the case of Law 4269/2014 and more specifically, in its last article. This confirms the lack of planning in legislation and continues the tradition of

circumvention of Article 74, paragraph 4, of the Greek Constitution which expressly commands the unity of Law, in other words it requires all provisions of every draft law introduced and voted in Parliament to be connected through a sequencing logic and conceptual unity.

H) The unequal implementation of urban planning legislation and the pressure of residents to be exempted from the obligations deriving by the applicable each time urban planning, mark the Greek State since its very beginning. Already since the time of the first governor of Greece, Kapodistrias, the planning legislation and the corresponding urban plans applied depending on the force and resistance of the local community.

I) Furthermore, it should be noted that the abstention of the State from the exercise of control over the implementation of the Law on urban planning, and successively, the abstention of the State from imposing sanctions nowadays, raises suspicions concerning unlawful transactions between citizens and the administration, as well as with the key society actors.

So, the existence of illegal buildings and the laws for their continuous legalisation are emerging as a big problem in Greece. In fact, it is calculated that so far there have been approximately 900,000 declared legalisations of unauthorized constructions. This results to the one-third (1/3) of settlements in our country being illegal. It should be highlighted that the uncontrolled reconstruction of our country takes on new meaning through a plethora of legal acts which legitimise the various illegalities and recant the core principles of the adopted instruments and legislative planning. The continuation of legalising illegal building, even after the Second World War, is interwoven with designs developed in areas which have already been urbanised. In consequence, as we know, the residential and spatial planning policy is guided by the suffocating pressure of owners for the use of their private property.

The legalization – ‘settlement’ of illegal buildings and the segmental retrospective planning which validates the already shaped residential area, is a rather frequent and recurrent phenomenon. It is repeated at such short intervals, that it now gives the impression of being a custom which will become binding when the political circumstances and anticipated political benefits so require; a sort of an ‘obligation’ of the State towards illegal settlers. In conclusion, the legalization of illegal buildings pursued by recent laws, namely Law 4014/2011 and Law 4178/2013 constitutes a continuation of an urban tradition which circumvents urban planning legislation and design and with which political power shall abide, also in order to counterbalance the enforcement of all the other, burdensome austerity measures.

II. The second part of my intervention refers to the new building regulation.

1. The terms and conditions of a building construction as laid down in each particular building regulation designate the built environment, the residential fabric, the aesthetics of a particular era, and signpost the living standards of the citizens. The Building Regulation specifies the choice of building positioning on the plot of land, the conceptual reasoning underlying the development of its built volume and body form, and the building internal fittings, all of which lead to the typology of building ensembles.

The provisions of the first statutory General Building Regulation enacted in 1929 have a twofold character: Not only do the 142 articles comprising the GBR constitute the specifications for the elaboration of street layout plans, which gave shape to several Greek towns and cities (Aravantinos, 2007, p. 168, Yerolymou, 2000, 157, Rizos, 2006, p. 197), but they also comprise the regulatory scope for the construction of buildings that impose a uniform architectural style (Chastaoglou, 1992, p.108).

The 1929 GBR subsumed the content of statutes of the departed century's first two decades providing high (building) coefficients contrary to king Othon's royal decree of 1834 which had enforced the mandatory construction of two-storey edifices on main streets and central squares, for reasons of urban uniformity. It mainly permits the transition to urban residential buildings, that is, multi-storey apartment buildings, and, therefore, the shift from the residence-plot to the privately owned apartment with percentage of joint ownership of property (Sariyannis, 2000, p.110).

**2.** The GBR of 1955, numbering 81 articles and 118 diagrams in 54 densely printed Official Government Gazette ( $\Phi$ EK) pages, stipulates the technical specifications for ventilation, lighting and static adequacy (Yerolymou, 2000, p. 160), also increasing maximum intensive plot exploitation (Sariyannis, 2000, p.161). It is worth noting that the GBR of 1955 is enacted in the post-WWII and post-civil war era, a time of pressing need of building reconstruction and restoration of built environment in urban and regional areas, by all means, the dominant issue of the decade following the warfare, with absolutely no provision, whatsoever, as to the distances between buildings, their positioning on the plot, or the free space surrounding apartment buildings, especially at a time of large freehold plots and open land.

**3.** The GBR of 1973 corroborates reconstruction by means of building plots for allowance, i.e. residual method, attests to the absence of architectural flexibility, projects the urban model of the city center with radiating pericentric districts that develop around it, allows for unrestricted building within existing residence areas.

**4.** The GBR of 1985 primarily undertakes the restructuring, redefinition and simplification of the building law: the GRB of 1973 consisted of 130 articles whereas that of 1985 numbered only 35.

Under the GBR of 1985, existing building systems -terraced, semi-detached, detached- are abolished and the building is positioned freely in the plot, a basic "limitation on architectural structural design" is adopted, instituting "the ideal body within which a specific building volume is subscribed" (Aravantinos, 2007, p. 174); the par of building plots- minimum required buildable plot size (artiotita)- is decided upon for each area either commonly at par or by variation (Efstratiou, 2006, p. 204). Furthermore, 1985 GBR provides for semi-open spaces consistent with the Mediterranean climate, concession of open-air spaces to public/common use, the active (building) block, as well as further stipulations of major contribution to the configuration of the redevelopment framework, making up a vision of a multi-center city.

However, as the keynote speaker pointed out during the NBR (New Building Regulation) Parliament deliberation, General Building Regulations, in particular that of 1985, are followed by numerous circular letters and amendments resulting in code



infringements and a change of their fundamental philosophy, which definitely reflects a correct viewpoint.

To that end, it is certainly the case that each one of the amendments is indicative of the opportunistic rationale underlying legislation drafting and attests to the absence of policy planning to the extent that law-making is nothing but materialization of political will. In addition, not only do frequent amendments of building regulations refute the basic objectives of the latter, but eventually they cancel the reconstruction of a viable and sustainable modern city.

As observed aptly in the preamble of the New Building Regulation, the GBR of 1985 went through so many fragmentary amendments, that its original conceptualization was ultimately transformed, more even after the enactment of a number of posterior case-specific regulatory supplements which, in turn, rendered it impossible to reconstruct a contemporary, pioneering freestanding building or complex. In other words, modern construction development has in reality been seriously hindered.

This is because the conversion of the typical sense of law, in our case of a GBR, from a content-generic and abstract notion to a content-specific provision bears an overall contradiction on the operational efficiency of any GBR. The content-specific stipulation provided by a given amendment or supplement thereof aiming in essence to give effect to a particular building policy is to all intents and purposes an overstepping of the typical perception of law as being generic and abstract, since it solely has a case-specific settlement in view. However, as long as, in formulating and drawing up the regulatory provision of the GBR, the legislator was not advised by the solicitude to encapsulate the abstract problem, there arise issues of conceptual clarity and, by extension, of GBR enforcement, as it is further called upon to operate beyond and out of the proper reason that necessitated its enactment. Indeed, it impedes the reconstruction of modern architecture in a homogenized city, in effect leading to the dominance of the post-war residential apartment building, ruling out any chance of change or transformation.

5. New Building Regulation provisions (L. 4067/2012, Official Gazette A' 79/2012) entered into force on July 9<sup>th</sup> 2012, and are signalled by a) new regulatory clauses seeking to reform terms of building construction in order to improve the residential environment, b) the rearticulation of stipulations of the former GBR and incorporation of circular letters, c) the adoption of the jurisprudence formed by the State Council and competent Administrative Courts of Appeal that contributed substantially to the broadening of the meaning spectrum of the GBR content, d) the normalization of formerly developed practice.

6. The NBR consists of 37 articles divided into 5 sections

- Section 1 of the first 6 articles sets the objective, scope and span of the NBR enforcement, clarifies building definitions, specifies the works requiring a building permit, explains in detail the meaning of illegally constructed building, and also refers to issues pertaining to the protection of architectural and natural heritage.
- Section 2 (articles 7-10) includes provisions related to the parity, buildability of plots and the entry of pertinent terms and conditions regarding

- establishment of an easement, and lays down the incentives towards upgrading and improving the quality of life in densely-built urban districts or other areas.
- Section 3 (articles 11-26) comprises the main body of the NBR where there is a thorough description of building terms conditions and limitations, the positioning and constituent parts of building development, as well as the incentives for the development of energy labelled buildings and statutory adjustments for Individuals with Special Needs.
  - Section 4 (articles 27-29) includes the special enabling provisions and repeals, and
  - Section 5 (articles 30-37) settles urban planning matters regarding either expropriations or their removals and modification of street layout plans.

The main novelties of the New Building Regulation and its objectives are the following:

- a) the provision of special adjustments of assistance to disabled, handicapped or impeded people,
- b) the endeavour to develop energy labelled buildings,
- c) the protection of urban land, and city revival through building supplanting in marginal areas of unfit and decomposed reserve, of degraded environment, or of rather small-sized building plots, the development of new green areas, and
- d) the preservation of architectural heritage.

This is the first time ever that the terms ensuring free access of disabled, handicapped, or impeded individuals to all buildings have been laid down at such great length in a building regulation. Article 26 attempts a more holistic and encompassing approach in order to integrate the accessibility warrant system for Individuals with Special Needs (“AmEA”), and it is further supplemented by special provisions interspersed among various NBR articles. In particular, article 26, intends to incorporate international standards and requirements into the Greek law and order, so as to achieve full protection of disabled, handicapped or impeded individuals, thus satisfying standing demands of the aforementioned individuals’ agents (National Confederation of People with Disabilities).

To begin with, in recent decades, international and European legislation has aimed at transcending the conventional planning of access and stopover in private or public places. What needs to be clarified is the fact that conventional planning regards the issue of accessibility of the disabled with a quasi-remedial manner in retrospect, that is, with special legislative clauses annexations after the planning consummation, addressing the average user. Conventional planning transgression takes place in the direction of universal planning, the US version, or planning for all, the European version of it.

Planning of this type will ensure general access to infrastructures, services and commodities regardless of any handicap. A necessary condition for universal planning is overstepping the medical disability model by which disability is regarded as an individual deficiency caused by either disease or injury, and treated with personalized medical care administered by adept physicians and nurses, for the sake of a societal model.

It should be underlined that for quite a long time all planning of infrastructures and respective services was grounded on the ‘vital statistics’ of the “average user” resulting from the study of the human body, and by ‘average user’ meaning a young man at the peak of his prime and strength. By no means, whatsoever is the above definition a realistic representation of the average user, but an ideal one, a social construct, a made-up notion, a product of the prevalent societal standpoint which by far fails to reflect human diversity.

Especially as regards building and outdoor spaces design, Universal Planning functions along the following lines:

- It abolishes altitudinal differences or smoothes out the inevitable ones
- It provides for ambience and safety in ample spaces with reception and waiting rooms for the accommodation of Individuals with Special Needs, e.g. sanitary facilities
- It signposts obstructions and hazards
- It simplifies equipment making it operationally accessible to all
- It adds value to the built environment
- A special note should be made of the regulatory provisions in the NBR which constitute the first substantial legislative contribution to introducing the idea of Universal (Master) Planning into the Greek reality, mandating horizontal and vertical autonomy for all interested disabled or handicapped parties as well as accommodation of their needs in all indoor or outdoor building premises.

Furthermore, according to article 26, par. 4, it is mandated that all premises of existing buildings accommodating public sector services or used for public assemblies be fashioned accordingly to ensure unobstructed and safe access and mobility by disabled and /or handicapped individuals. In case of non-compliance, these buildings will be classified as illegal ones. At all events, an obligation to fashion Special Needs friendly buildings stands on the prerequisite that prescribed interventions and additions should not in any way injure the supporting structure of the building.

Yet, although it is made clear that special matters pertaining to the adjustment of buildings that fall into the conceptual scope of par. 4 will be stipulated by a Cabinet Decree, (Minister of Environment and Development or other competent Ministers), up to this day no such decree has been issued, whereas supervision or policy planning jurisdiction is often assigned to territorial Directorates of competent Ministries, namely the Ministry of Labour or Ministry of Macedonia-Thrace.

In addition, in a pertinent annual report by ANED (Academic Network of European Disability Experts) it is highlighted that, despite a series of enacted statutes aiming at enforcing accessibility in our country, the rather usual implications of this legislative pluralism are inadequate fulfilment of the regulatory requirements of accessibility with absolutely no sanctions for these failures and omissions.

A point should be made though, regarding the concept of accessibility which, according to the NBR, is more consistent with the notion of “accessibility and mobility in a wheelchair” than that of universal accessibility or unobstructed mobility owing to architectural or other barriers.

This is a very restrictive approach because foremostly it does not suffice to provide safe, autonomous, easy access to mobility, but, in accordance with the principle of access for all, what is also required is that individuals with special needs and handicapped ones be guaranteed respective use of facilities of various kinds. That is, for sports facilities to be considered functional for either athletes or plain people with a disability practising sports, in general, there ought to be an access and mobility guarantee for people with some sort of disability other than kinetics handicaps, including sight, hearing impairments or mental, neurological, psychological deficiencies to name a few.

Also, according to the American government annual Report of 2012 assessing the situation in Greece, only 5% of public buildings, most of which are located in Athens, are fully accessible, whereas, even buildings equipped with special ramps in most cases do not have accessible elevators.

It is true though that in cultural sites, hotel units, and/or recreational sites and leisure facilities constructed by private sector entrepreneurial initiative, Individuals with Special Needs (“AmEA”) accessibility spots certainly comply with the regulatory content of article 26 to a much greater degree.

Finally, in lieu of the prevailing philosophy in the European theory and practice, measures taken should not lead to a special building type end-product, tailor-constructed for people with special needs, simulating a ghetto. On the contrary, disability-specific measures should incorporate accessibility interventions into all new buildings, facilities, etc., or safeguard the relatively easy convertibility of existing spaces to spaces custom-designed and equipped to meet the particular needs of disabled or handicapped individuals. Only in this way is functionality warranted in terms of safe, autonomous and easy accessibility and mobility for individuals with disabilities, handicaps, impairments, and deficiencies of any nature.

B) Undeniably, the choices we make to resolve problems ensuing from climatic conditions are quite effective, and indeed our houses become tolerable solely because of the use of highly advanced technological and mechanical equipment, whose cost sometimes exceeds that of the actual construction of the architectural fabric. A typical example illustrating the above point is a survey sampling the 4 climatic zones in our country and by analogy the population distribution, and was carried out throughout the summer months of years 2010 and 2011. The survey conclusively showed that 61% of the respondents have domestic air conditioning systems installed, 44% have electric fans, and only 12% have no home-cooling system of any kind.

Needless to say that, irrespective of the series of mechanical-technological means, our air conditioning choices often prove inefficient; hence, we cannot keep overlooking the natural environment and underestimating its impact on our cities, towns, and buildings.

To make our cities viable (and sustainable), the NBR suggests the conversion of existing building fabrics, or the construction of energy-efficient buildings of low energy consumption. Establishing planted spaces and green elements, as a modern architecture demand, has become a trend mainly since the 1980's. Widely known as “green architecture”, it attempts to blend together construction with ecology, focusing

mainly on establishing plantings along vertical surfaces (walls), unsheltered (exterior or open-air) spaces, rooftops and interior spaces, etc.

In particular: Article 16 specifies the elements on the building facades that partake in its volume formation and contribute to the support of its bioclimatic design with passive cooling, shading and natural ventilation systems. Specifying those elements acts as an incentive for their creation and integration, since they are deductible from the building surface-volume coverage coefficient by the dimensions cited in this article.

Green walls and vertical (suspended) gardens are also classified as energy and decorative parts supporting bioclimatic design with the creation of passive cooling, shading and natural ventilation systems.

Vertical walls, also called living walls, are ideal for the coverage of extensive vertical surfaces, in a short time creating a spectacular outcome indeed.

Article 17 determines the statutory built-surface ratio – i.e. non-built-on part of parcel, the parcel developments and the reasons why they are permitted, the output management of any landscaping works, the elements on vacant parts of parcel facilitating bioclimatic design or Green building, and the reduction in energy consumption of buildings, or utility requirements.

Article 18 refers to the development of planted green surfaces on housetops, on roofs and patios, to their construction specifications, the procedural terms and conditions as regards the informative documentation of the competent authority.

To encourage the sprawl of green roofs, housetops or exterior green spaces, there should be stipulations linking green architecture practices to economic incentives either direct (i.e. tax exemptions, subsidies) or indirect ones. A rate relief (municipal taxes privilege) might as well be proposed as an indirect incentive, given the increased water retention capacity of precipitated rainwater on the green-planted housetop and its subsequent reduction in water quantity draining into the sewage pipes infrastructure; moreover, the decrease in water runoff speed contributes to reducing the sewage system relief factor in the region. Besides, encouraging municipal citizens and providing financial aid to have them opt for green practices on their roofs and housetops ought to be the Local Government solicitude, judging by respective initiatives mainly in the WGF (West Germany Federation).

NBR article 25 provisions grant a raised building coefficient incentive to those buildings employing bioclimatic and energy planning and design standards, requiring a minimum of energy consumption, using systems that economize on energy (energy-saving systems) as well as systems employing renewable sources of energy, at the same time featuring optimal environmental performance. In addition, article 25 provisions further specify the environmental assessment methodology of buildings, the requirements for a building permit, the control procedure and the fines inflicted in case of failure to implement the construction.

At all events, by 1-1-2021, all new buildings must be near-zero-energy (consumption) buildings, and by 1-1-2019 all new public or broader public sector buildings accommodating general public services. Existing buildings or premises undergoing

total renovations should exhibit upgraded energy efficiency to the degree that it is technically, operationally and financially feasible, so that minimum energy efficiency requirements are met as laid down in the Greek Regulation for the Energy Efficiency of Buildings (“KENAK”).

Public interest in the energy efficiency of buildings has led to the development of energy and environmentally-efficient building systems such as LEED (Leadership in Energy and Environmental Design), DGNB (Deutsche Gesellschaft für Nachhaltiges Bauen), their purpose being to reconstruct buildings that have been erected in accordance with the principles of both environmental design and use of renewable sources of energy. These systems set the minimum standards for the certification of buildings and apply a rating mechanism – calculating the energy performance of buildings – that allows for the comparison of building efficiency.

Indisputably, despite the fact that energy and environment building efficiency systems have been developed upon private entrepreneurial initiative, so they are essentially private, and follow diverse methodologies for the calculation of each building energy requirements, they have nonetheless been adopted by the NBR, and upon completion of its positive assessment the building is granted a special raise of BC (building coefficient) by 10%.

Still, the diversity of criteria involved in energy efficiency, environmental, sanitary, social and cultural concerns, but above all in the methodology and assessment throughout the entire conceptualization and construction process, at all stages of energy and environment efficiency of buildings, in plain words from the stage of design, building, renovations, even to its partial demolitions, transform and make imperative the industry of materials and constructions for the development of low-energy-consumption and environmentally-friendly buildings. It is this overabundance of standards and criteria that could easily blur the picture and lead it astray from its pivotal goal which is summed up in the reduction of environmental implications effected by the proper building construction and minimal energy consumption in conjunction with the creation of microclimate affording its tenant the best thermal and visual comfort possible.

C) It goes without saying, that at the present economic juncture, the State could not possibly fund large scale interventions to modify the built environment. The lack of adequate unbuilt terrain and the dominance of old-type buildings form the prime reason for the composition of the regulatory content of article 10. The objective of paragraphs 1 through 4 and 9 of article 10 is to have a high energy-consumption apartment building pulled down and a modern environmentally friendly and taller residential building erected in its place thus managing to save substantial free space.

Article 10 lays down the criteria and conditions to be met towards reduction of coverage and floor area ratio, decrease in parceling out of plots, and increase of common utility space. It further provides for the tiered increase of building coefficient, provided that special conditions are fulfilled.

**A main feature of the gain-loss mechanism is “coverage reduction against raised building coefficient”.**

The owner is expected to accept the building plot coverage decrease against his gained benefit from the raised building coefficient. In order for the proprietor to reap the reward from the raised building coefficient, in addition to the drop of coverage coefficient, depending on the case, he may be required to consent to principal use building withdrawal, as stipulated in article 2 par.7 of Article 10.

Also, an additional condition to be met by the proprietor for the extra building coefficient gain is the return of plot section to common utility **contiguous to shared space of approved street layout plan.**

Following, the mechanism implementation is activated solely upon proprietor initiative, this being the significant novelty of these provisions, as well as the fact that neither is the entry in the mechanism criteria within Official Authority discretion, nor is an administrative act issued for the primary entry of real property in the particular mechanism. Therefore, the mechanism application ensues directly from the building permit, which, in turn, will particularize the mechanism implementation output on the building under construction.

The substantive objectives of such tiered increase criteria are: the reuse of planned and built land; the substitution of buildings in city districts suffering from unsuitable and decomposed reserve, degraded environment or parcelled out into excessively small building plots; and, last but not least, the creation of new green spaces.

**However, the main risk is that the alteration of building terms applicable to one or more real estates in an area, and the modification of shared spaces network within the same district do not presuppose city planning amendment of the district in question.**

In any case, activating statutory criteria in par. 1-4 and 9, article 10 of NBR necessitates transcending our citizens' reluctance to participate in any kind of initiative towards changing their residential and urban planning customary attitudes and especially overcoming the status of micro-proprietorship. Building plots in urban centers are so parcelled out that real estate is particularly dispersed, meaning that the average size of building plots throughout the blooming era of apartment building contractors was 180 m<sup>2</sup> in Athens and even smaller in the rest of the cities and provincial towns. What should also be taken into serious account is the fact that by the end of 1980s and 1990s, 80% of households own usable property and during the same period title deeds account for 60% real estate proprietorship irrespective of social stratification.

This parcelled out micro-ownership was further enhanced by occasional legislative policies instituting small parity, in some cases lower than 100m<sup>2</sup>, and allowing for the gradual raise of building coefficients. It is an undeniable fact that in these days of unprecedented economic crisis that we have been experiencing lately, reconceptualization of public space can only arise from integrated interventions, mainly on a small scale. The resulting small spaces could offer a great opportunity for the development of an organized network of small-scale publicly accessible drops of open green space, known as pocket parks.

Pocket parks aim to ecologically activate and unify urban vacant lots upon completion of the regulatory content of article 10 and will restore the breaks in the urban fabric,

and develop a well-structured network of free-access living green spaces a match for large shared public urban spaces. A typical urban transformation initiative is that of the city of Copenhagen; by 2015, the municipality will have established 14 new pocket parks throughout the city and planted 3,000 trees to create green streets and connections. In 1999, the Pennsylvania Horticultural Society's (PHS) Philadelphia Green program successfully removed spoil waste, cleaned, greened and fenced 4,000 thousand vacant lots throughout the city.

D) Under article 6 of the NBR, the protected elements of architectural or natural and physical heritage are identified and afforded statutory protection, and the terms and conditions of their eligibility for listing, scheduling, registering as well as the terms of repair, maintenance or restoration works carried out to listed structures are designated.

In fact, all extensions, insertions and alterations or other building works require listed building consent and fall under the scope of special restrictive terms including warranting and enabling every effort to preserve the building, practicing its rightfully intended use, provided these works ensure that the character of the asset in question is protected in its entirety. Therefore, special emphasis should be placed on making extension and alteration decisions that balance the building's historic significance against other issues such as its function, condition and viability. It is indeed critical for a listed building to provide its owner/tenant with the day-to-day functions; otherwise, it will inevitably, with mathematical certainty, fall into disrepair and abandonment.

The question as to the specific criteria against which the competent Authority can pursue the protection and designation of buildings eligible for listing with provision for extensions and necessary building regulations does not seem likely to receive an advance answer with legal certainty. Standards against which proposed alterations should be examined and permitted must be considered on the merits of each particular case and technique. It should be underlined that with the State Council's jurisprudence being so particularized, solid and crystal clear, the competent Authority, in this case the Central Board of Architecture, is enabled to issue studious opinions that pledge to keep the listed building integrity intact and incorporate it into the contemporary urban fabric.

E) Finally, what remains to be seen in practice is whether the NBR provisions render it a modern legal -technical tool reflecting the multifaceted building and urban planning activity in the present historical, political and economic context.

It remains to be proven in practice whether the NBR constitutes a fundamental State option purporting to overcome pressing issues resulting from the understaffing of public administration and especially of building-related civil services, to revitalize the currently weakened construction sector and, what is more, to inflict change on the on-going fashion of building design and development in a viable green city.

Experience in practice will show whether the 17 amendments and supplements effected in the NBR by now will be the final ones, so that the objectives laid down in the preamble are confirmed, or whether under the NBR "a new perception will be cultivated necessitating imperative change of customary attitudes and adoption of alternative practices leading to climate deterioration slowdown, building use



expenditure improvement, as well as improvement of the social factors pertaining to the built environment.

It does remain to be seen whether the NBR will fall through just as the preceding BRs have, or be met with success.

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